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WITH FORMS AND

CORPORATION LAWS OF ARIZONA

THIRD EDITION

REVISED TO NOVEMBER 1, 1907

COMPILED BY

CALVERT WILSON

ATTORNEY AT LAW

LOS ANGELES, CAL.

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BAUMGARDT PUBLISHING CO.
Los Angeles, Cal.
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TO ATTORNEYS

I would advise you that I have in my office a complete set of Arizona Statutes, decisions and forms which you are welcome to use at any time.

I have associates, mostly attorneys, who can act as agents for corporations, in all the principal towns of Arizona, and I can thus quickly and carefully assist you to incorporate. Correspondence with attorneys on Arizona practice will be cheerfully answered to assist them in their business. I was for many years District Attorney in Arizona and have been in this line of business for 20 years. You can save yourself a great deal of trouble and possible error by handing or sending your original articles (and two copies) to me, and my associate in Arizona will attend to filing and publishing and return all papers to you promptly.

We are also prepared to hold stockholders' meetings anywhere in Arizona by proxy when desired.

If you have occasion to associate counsel with you in any mining litigation in Arizona, I would have you know that either my father, Gen. Thos. F. Wilson, or myself attend all terms of Court in Phoenix (Maricopa County), Yuma (Yuma County), Nogales (Santa Cruz County), Florence (Pinal County), Tombstone (Cochise County), and Tucson (Pima County). We have had from fifteen to twenty years' experience in mining litigation in Arizona.

We can also assist you to obtain patents to mining claims or agricultural entries either through the local U. S. Land Offices at Phoenix, Arizona, or Los Angeles, California, or the Departments in Washington.

Gen. Thos. F. Wilson resides at Tucson, Arizona, where he was United States Attorney. We will be glad to be associated in any class of general law business you may have in Arizona.

I refer by permission to Hon. W. J. Hunsaker, Hon. E. W. Camp and Messrs. Works, Lee & Works, Attorneys, Los Angeles, California.

CALVERT WILSON.
Attorney at Law,
Los Angeles, California.
350 Wilcox Building. Home Phone 1851.

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SUMMARY OF
UNITED STATES LAWS

All mineral lands are open to occupation and purchase by any citizen, or he who has declared his intention to become a citizen of the United States.

A mining claim located since May 10, 1872, shall not exceed fifteen hundred feet in length along the vein or lode and three hundred feet on each side of the middle of the vein at the surface.

The locator of a mining claim has the exclusive right of possession and enjoyment of all of the surface of his claim and of all veins, lodes or ledges throughout their entire depth, the top or apex of which lies inside his surface lines extended vertically downwards. The owner of a mining claim may follow his ledge should its dip carry him beyond his side lines extended vertically down, so long as he does not trespass on the surface of another claim; but in no case can he go beyond his end lines, which must in all cases be parallel.

No lode claim can be recorded until a vein or lode has been discovered thereon.

Where two claims cross each other the prior location is entitled to all the ore or mineral within the space of intersection, but the subsequent location has a right of way through the space of intersection for the working of the mine, and where two or more veins unite the oldest location takes the vein below the point of union, including all the space of intersection.

A PATENT can be obtained on a mining claim after $500 has been expended thereon for development or improvement, upon its being surveyed by a United States mineral surveyor, and by the payment of $5 per acre for the land to the United States Government.

TO HOLD AN UNPATENTED MINING CLAIM, not less than $100 worth of labor shall be performed or improvements made thereon each year, subject to the local laws of the State or rules of the mining district. Where several claims are held in common and are contiguous, the whole expenditure may be made on any one claim. The period within which this work is required to be done begins on the first day of January of the year succeeding the year of location.

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Mining Laws of the United States

Title XXXII, Chapter 6, Revised Statutes.

Sec. 2318. In all cases lands valuable for minerals shall be reserved from sale, except as otherwise expressly directed by law. 132 Cal. 115.

Sec. 2319. All valuable mineral deposits in lands belonging to the United States, both surveyed and unsurveyed, are hereby declared to be free and open to exploration and purchase, and the lands in which they are found to occupation and purchase, by citizens of the United States and those who have declared their intention to become such, under regulations prescribed by law, and according to the local customs or rules of miners in the several mining districts, so far as the same are applicable and not inconsistent with the laws of the United States.

As to Aliens—152 U. S. 505. As to Location by Agent—109 Cal. 122. As to Locations on Townsite—115 U. S. 406. Private Corp. can Locate—137 U. S. 168. A Minor can Locate, 72 Cal. 531. Also see 171 U. S. 55; 173 U. S. 439; 175 U. S. 571; 133 Cal. 634; 181 U. S. 519; 183 U. S. 563.

Sec. 2320. Mining claims upon veins or lodes of quartz or other rock in place bearing gold, silver, cinnabar, lead, tin, copper, or other valuable deposits, heretofore located, shall be governed as to length along the vein or lode by the customs, regulations, and laws in force at the date of their location. A mining claim located after the tenth day of May, eighteen hundred and seventy-two, whether located by one or more persons may equal, but shall not exceed, one thousand five hundred feet in length along the vein or lode; but no location of a mining claim shall be made until the discovery of the vein or lode within the limits of the claim located. No claim shall extend more than three hundred feet on each side of the middle of the vein at the surface, nor shall any claim be limited by any mining regulation to less than twenty-five feet on each side of the middle of the vein at the surface, except where adverse rights existing on the tenth day of May, eighteen hundred and seventy-two, render such limitation necessary. The end lines of each claim shall be parallel to each other.

Meaning of Vein, Lode and Ledge—17 Utah 185; 73 Cal. 114; 116 U. S. 529; 167 U. S. 115; 122 U. S. 484.

Discovery—152 U. S. 227; 134 Cal. 585; 94 F. R. 600; 177 U. S. 505; 93 F. R. 612; 167 U. S. 115; 5 F. R. 172; 17 Utah 185.
Willing to Develop—82 Fed.; 37 Oregon 185.
Length and Width of Location—18 Col. 524; 5 F. R. 172.
What is Mining Claim—104 U. S. 284.
Surface Lines—171 U. S. 75; 122 U. S. 484; 104 F. R. 664; 118 U. S. 196; 171 U. S. 293.
Overlapping Claims—171 U. S. 75; 171 U. S. 83. Gen. 115 U. S. 45; 104 U. S. 279; 94 U. S. 762.

Sec. 2321. Proof of citizenship, under this chapter, may consist, in the case of an individual, of his own affidavit thereof; in the case of an association of persons unincorporated, of the affidavit of their authorized agent, made on his own knowledge, or upon information and belief; and in the case of a corporation organized under the laws of the United States, or of any state or territory thereof, by the filing of a certified copy of their charter or certificate of incorporation. 11 F. R. 125; 130 U. S. 299; 72 Cal. 531.

Supplemented by an act of April 26th, 1882, which provides as follows:

"That applicants for mineral patents, if residing beyond the limits of the district wherein the claim is situated, may make any oath or affidavit required for proof of citizenship before the clerk of any court of record, or before any notary public of any state or territory." 22 Stats. at Large, p. 49, chap. 106.

Sec. 2322. The locators of all mining locations heretofore made or which shall hereafter be made, on any mineral vein, lode, or ledge, situated on the public domain, their heirs and assigns, where no adverse claims exists on the tenth day of May, eighteen hundred and seventy-two, so long as they comply with the laws of the United States, and with State, Territorial and local regulations not in conflict with the laws of the United States governing their possessory title, shall have the exclusive right of possession and enjoyment of all the surface included within the lines of their locations, and of all veins, lodes and ledges throughout their entire depth, the top or apex of which lies inside of such surface lines extended downward vertically, although such veins, lodes, or ledges may so far depart from a perpendicular in their course downward as to extend outside the vertical side lines of such surface locations. But their right of possession to such outside parts of such veins or ledges shall be confined to such portions thereof as lie between vertical planes drawn downward as above described through the end lines of their locations, so continued in their

own direction that such planes will intersect such exterior parts of such veins or ledges. And nothing in this section shall authorize the locator or possessor of a vein, or lode which extends in its downward course beyond the vertical lines of his claim to enter upon the surface of a claim owned or possessed by another.

11 Pac. 77; 11 Pac. 515; 98 U. S. 463; 118 U. S. 196; 116 U. S. 529; 116 U. S. 418; 98 U. S. 453; 29 F. R. 347; 3 Utah 159; 128 U. S. 680; 122 U. S. 478; 114 U. S. 576; 29 F. R. 814; 16 F. R. 348; 171 U. S. 55; 171 U. S. 293; 113 F. R. 900. Right of Possession—104 U. S. 284; 152 U. S. 229.

Sec. 2323. Where a tunnel is run for the development of a vein or lode, or for the discovery of mines, the owners of such tunnel shall have the right of possession of all veins or lodes within three thousand feet from the face of such tunnel on the line thereof, not previously known to exist, discovered in such tunnel, to the same extend as if discovered from the surface and locations on the line of such tunnel of veins or lodes not appearing on the surface, made by other parties after the commencement of the tunnel, and while the same is being prosecuted with reasonable diligence, shall be invalid, but failure to prosecute the work on the tunnel for six months shall be considered as an abandonment of the right to all undiscovered veins on the line of such tunnel.

4 Cal. 507; 127 U. S. 481; 182 U. S. 500; 167 U. S. 116; 143 U. S. 405.

Sec. 2324. The miners of each mining district may make regulations not in conflict with the laws of the United States, or with the laws of the State or Territory in which the district is situated, governing the location, manner of recording, amount of work necessary to hold possession of a mining claim, subject to the following requirements: The location must be distinctly marked on the ground so that its boundaries can be readily traced. All records of mining claims hereafter made shall contain the name or names of the locators, the date of the location, and such a description of the claim or claims located by reference to some natural object or permanent monument as will identify the claim. On each claim located after the tenth day of May, eighteen hundred and seventy-two, and until a patent has been issued therefor, not less than one hundred dollars' worth of labor shall be performed or improvements made during each year.

On all claims located prior to the tenth day of May, eighteen hundred and seventy-two, ten dollars' worth of labor shall be

performed or improvements made by the tenth day of June, eighteen hundred and seventy-four, and each year thereafter, for each one hundred feet in length along the vein, until a patent has been issued therefor; but where such claims are held in common, such expenditure may be made upon any one claim; and upon a failure to comply with these conditions, the claim or mine upon which such failure occurred shall be open to relocation in the same manner as if no location of the same had ever been made, provided that the original locators, their heirs, assigns, or legal representatives, have not resumed work upon the claim after failure and before such location.

Upon the failure of any one of several co-owners to contribute his proportion of the expenditures required hereby, the co-owners who have performed the labor or made the improvements may, at the expiration of the year, give such delinquent co-owner personal notice in writing or notice by publication in the newspaper published nearest the claim, for at least once a week for ninety days, and if at the expiration of ninety days after such notice in writing or by publication such delinquent should fail or refuse to contribute his proportion of the expenditure required by this section, his interest in the claim shall become the property of his co-owners who have made the required expenditures.

Tunnel Amendment, February 11, 1875.

Be it enacted by the senate and house of representatives of the United States of America in congress assembled, that section two thousand, three hundred and twenty-four of the Revised Statutes be, and the same is hereby, amended so that where a person or company has or may run a tunnel for the purpose of developing a lode or lodes, owned by said person or company, the money so expended in said tunnel shall be taken and considered as expended on said lode or lodes, whether located prior to or since the passage of said act; and such person or company shall not be required to perform work on the surface of said lode or lodes in order to hold the same as required by said act. (18 Stats. at Large, page 315, chap. 41.)

Amendment of January 22, 1880.

"Provided, that the period within which the work required to be done annually on all unpatented mineral claims shall commence on the first day of January succeeding the date of location of such claim, and this section shall apply to all claims located since the tenth day of May, Anno Domini eighteen hundred and seventy-two." (21 Stats. at Large, page 61, chap. 9.)

Marking Location—53 Cal. 149; 59 Cal. 614; 119 Fed. 55; 152 U. S. 227; 116 U. S. 418; 113 Cal. 550; 158 U. S. 441;

130 U. S. 291.

Time to Mark Boundaries—93 Fed. 611; 115 F. R. 531; 129 Cal. 483; 137 Cal. 211.

Permanent Monument—158 U. S. 441; 137 Cal. 212; 130 U. S. 291; 67 Pac. 955; 129 Cal. 436.

Notice of Location—129 Cal. 350; 123 F. R. 209; 160 U. S. 318; 25 F. R. 596; 113 U. S. 534; 111 U. S. 356; 183 U. S. 563; 134 F. R. 610.

One Hundred Dollars Labor—125 F. R. 147; 97 F. R. 386; 27 Cal. 501; 127 F. R. 611; 132 Cal. 56; 111 U. S. 353. On one for more—109 U. S. 440; 114 Cal. 100; 30 Cal. 431; 104 U. S. 636; 145 U. S. 428; 11 F. R. 677; 24 Mont. 243; 11 Utah 328; 75 Pac. 919; 133 Cal. 510; 130 U. S. 292; 65 Cal. 555.

Forfeiture to Co-owner—194 U. S. 248; 150 U. S. 585; 17 Colo. 243.

Recording Notice—129 Cal. 361; 144 U. S. 658; 117 U. S. 401; 16 Utah 103; 99 U. S. 261; 29 F. R. 814.

Relocation—65 Cal. 605; 171 U. S. 77; 129 Cal. 350; 58 F. R. 295; 24 Utah 73; 104 U. S. 279; 82 F. R. 554; 65 Cal. 555; 181 U. S. 269; 18 Utah 183; 75 Cal. 284. 134 F. R. 610.

Generally—60 Cal. 631; 175 U. S. 571; 17 Cal. 107.

Sec. 2325. (Patents for Mineral Lands, how obtained). A patent for any land claimed and located for valuable deposits may be obtained in the following manner: Any person, association, or corporation authorized to locate a claim under this chapter, having claimed and located a piece of land for such purposes, who has, or have complied with the terms of this chapter, may file in the proper land office an application for a patent, under oath, showing such compliance, together with a plat and field notes of the claim or claims in common, made by or under the direction of the United States surveyor-general, showing accurately the boundaries of the claim or claims, which shall be distinctly marked by monuments on the ground, and shall post a copy of such plat, together with a notice of such application for a patent, in a conspicuous place on the land embraced in such plat previous to the filing of the application for a patent, and shall file an affidavit of at least two persons that such notice has been duly posted, and shall file a copy of the notice in such land office, and shall thereupon be entitled to a patent for the land, in the manner following: The register of the land office, upon the filing of such application, plat, field-notes, notices and affidavits, shall publish a notice that such application has been made, for the period of sixty days, in a newspaper to be by him designated as published nearest to such claim; and he shall also post such notice in his office for the

same period. The claimant at the time of filing this application, or at any time thereafter within the sixty days of publication, shall file with the register a certificate of the United States surveyor-general that five hundred dollars' worth of labor has been expended or improvements made upon the claim by himself or grantors; that the plat is correct, with such further description by such reference to natural objects or permanent monuments as shall identify the claim, and furnish an accurate description, to be incorporated in the patent. At the expiration of the sixty days of publication the claimant shall file his affidavit, showing that the plat and notice have been posted in a conspicuous place on the claim during such period of publication. If no adverse claim shall have been filed with the register and the receiver of the proper land office at the expiration of the sixty days of publication, it shall be assumed that the applicant is entitled to a patent; upon the payment to the proper officer of five dollars per acre, and that no adverse claim exists; and thereafter no objection from third parties to the issuance of a patent shall be heard, except it be shown that the applicant has failed to comply with the terms of this chapter. Provided, That where the claimant for a patent is not a resident of or within the land district wherein the vein, lode, ledge or deposit sought to be patented is located, the application for patent and the affidavits required to be made in this section by the claimant for such patent may be made by his, her, or its authorized agent, where said agent is conversant with the facts sought to be established by said affidavit. And, Provided, That this section shall apply to all applications now pending for patents to mineral lands. (R. S.)

24 Nev. 273; 74 Pac. 518; 135 U. S. 298; 33 F. R. 562; 150 U. S. 587; 85 F. R. 485; 21 F. R. 695; 194 U. S. 233; 82 F. R. 697; 119 U. S. 167; 167 U. S. 115.

Fraud—128 U. S. 676.

Generally on this Section—171 U. S. 56; 177 U. S. 505; 188 U. S. 184.

Sec. 910. No possessory action between persons in any court of the United States for the recovery of any mining title or for damages to any such title shall be affected by the fact that the paramount title to the land in which such mines lie is in the United States; but each case shall be adjudged by the law of possession.

104 U. S. 283; 85 F. R. 486; 122 F. R. 784; 92 F. R. 230; 53 F. R. 321; 117 Cal. 489; 24 Or. 265.

Sec. 2326. (Adverse claim, proceedings on.) Where an adverse claim is filed during the period of publication, it shall be upon oath of the person or persons making the same, and shall show the nature, boundaries, and extent of such adverse claim,

and all proceedings, except the publication of notice and making and filing of the affidavit thereof, shall be stayed until the controversy shall have been settled or decided by a court of competent jurisdiction, or the adverse claim waived. It shall be the duty of the adverse claimant, within thirty days after filing his claim, to commence proceedings in a court of competent jurisdiction, to determine the question of the right of possession, and prosecute the same with reasonable diligence to final judgment; and a failure so to do shall be a waiver of his adverse claim. After such judgment shall have been rendered, the party entitled to the possession of the claim, or any portion thereof, may, without giving further notice, file a certified copy of the judgment-roll with the register of the land office, together with the certificate of the surveyor-general that the requisite amount of labor has been expended or improvements made thereon, and the description required in other cases, and shall pay to the receiver five dollars per acre for his claim, together with the proper fees, whereupon the whole proceedings and the judgment-roll shall be certified by the register to the commissioner of the general land office, and a patent shall issue thereon for the claim, or such portion thereof as the applicant shall appear, from the decision of the court, to rightly possess. If it appears from the decision of the court that several parties are entitled to separate and different portions of the claim, each party may pay for his portion of the claim, with the proper fees, and file the certificate and description by the surveyor-general, whereupon the register shall certify the proceedings and judgment-roll to the commissioner of the general land office, as in the preceding case, and patents shall issue to the several parties according to their respective rights. Nothing herein contained shall be construed to prevent the alienation of the title conveyed by a patent for a mining-claim to any person whatever. (R. S.)

180 U. S. 534; 177 U. S. 534; 175 U. S. 579; 177 U. S. 513; 157 U. S. 694; 114 Cal. 100; 114 U. S. 585; 119 U. S. 485; 163 U. S. 165; 123 F. R. 936; 67 Pac. 724; 95 F. R. 213; 83 Cal. 300; 129 Cal. 480; 119 U. S. 485; 109 U. S. 440; 107 U. S. 401; 57 Pac. 641; 111 U. S. 350.

(Act of March 3, 1881, ch. 140, 21 Stat. L. 505).

(Findings by Jury—Costs.) That if, in any action brought pursuant to section twenty-three hundred and twenty-six of the Revised Statutes, title to the ground in controversy shall not be established by either party, the jury shall so find, and judgment shall be entered according to the verdict. In such case costs shall not be allowed to either party, and the claimant shall not proceed in the land-office or be entitled to a pat-

ent for the ground in controversy until he shall have perfected his title.

(Act of April 26, 1882, ch. 106, 22 Stat. L. 49).

Sec. 1. **(Oath of Claimant, Before Whom Made.)** That the adverse claim required by section twenty-three hundred and twenty-six of the Revised Statutes may be verified by the oath of any duly-authorized agent or attorney-in-fact of the adverse claimant cognizant of the facts stated; and the adverse claimant, if residing or at the time being beyond the limits of the district, wherein the claim is situated, may make oath to the adverse claim before the clerk of any court of record of the United States or of the state or territory where the adverse claimant may then be, or before any notary public of such state or territory.

Sec. 2. That applicants for mineral patents, if residing beyond the limits of the district wherein the claim is situated, may make any oath or affidavit required for proof of citizenship before the clerk of any court of record, or before any notary public of any State or Territory.

Sec. 2327. The description of vein or lode claims, upon surveyed lands, shall designate the location of the claim with reference to the lines of the public surveys, but need not conform therewith; but where patents have been or shall be issued for claims upon unsurveyed lands, the surveyors-general, in extending the public survey, shall adjust the same to the boundaries of said patented claims so as in no case to interfere with or change the true location of such claims as they are officially established upon the ground. Where patents have issued for mineral lands, those lands only shall be segregated and shall be deemed to be patented which are bounded by the lines actually marked, defined, and established upon the ground by the monuments of the official survey upon which the patent grant is based, and surveyors-general in executing subsequent patent surveys, whether upon surveyed or unsurveyed lands, shall be governed accordingly. The said monuments shall at all times constitute the highest authority as to what land is patented, and in case of any conflict between the said monuments of such patented claims and the descriptions of said claims in the patents issued therefor the monuments on the ground shall govern, and erroneous or inconsistent descriptions or calls in the patent descriptions shall give way thereto.

Sec. 2328. Concerns applications for patents, pending prior to May, 1872.

Sec. 2329. Claims usually called "placers" including all forms of deposit, excepting veins of quartz, or other rock in

place, shall be subject to entry and patent, under like circumstances and conditions, and upon similar proceedings, as are provided for vein or lode claims; but where the lands have been previously surveyed by the United States, the entry in its exterior limits shall conform to the legal subdivisions of the public lands.

See Gould & T. 3, 441.

128 U. S. 679; 196 U. S. 119; 65 Cal. 40; 78 Cal. 595; 134 Cal. 350.

What Can Be Located As Placer. (See, also, citations 2330). Stone, oil, salt, springs, granite quarries, marble.

(Act of August 4, 1892, ch. 375, 27 Stat. L. 348).

Sec. 1. (Entry of building stone lands under placer claims laws). That any person authorized to enter lands under the mining laws of the United States may enter lands that are chiefly valuable for building stone under the provisions of the law in relation to placer mineral claims, Provided, That lands reserved for the benefit of the public schools or donated to any state shall not be subject to entry under this act. (27 Stat. L. 348).

(Act of February 11, 1897, ch. 216, 29 Stat. L. 526).

(Entry of petroleum or other mineral oil lands under placer claims laws.) That any person authorized to enter lands under the mining laws of the United States may enter and obtain patents to lands containing petroleum or other mineral oils, and chiefly valuable therefor, under the provisions of the laws relating to placer mineral claims. Provided, That lands containing such petroleum or other mineral oils which have heretofore been filed upon, claimed, or improved as mineral, but not yet patented, may be held and patented under the provisions of this Act the same as if such filing, claim or improvement were subsequent to the date of the passage hereof. (29 Stat. L. 526).

An Act extending the mining laws to saline lands.

(Act of January 31, 1901, ch. 186, 31 Stat. L. 745).

(Entry of Saline Lands Under Placer Claims Laws.) That all unoccupied public lands of the United States containing salt springs, or deposits of salt in any form, and chiefly valuable therefor, are hereby declared to be subject to location and purchase under the provisions of the law relating to placer mining claims. Provided, That the same person shall not locate or enter more than one claim hereunder. (31 Stat. L. 745.)

An Act defining what shall constitute and providing for Assessments on Oil Mining Claims. (Act of February 12, 1903, ch. 548, 32 Stat. L. 825.)

(Assessments required for Oil Mining Claims.) That where

oil lands are located under the provisions of title thirty-two, chapter six, Revised Statutes of the United States, as placer mining claims, the annual assessment labor upon such claims may be done upon any one of a group of claims lying contiguous and owned by the same person or corporation, not exceeding five claims in all: **Provided,** that said labor will tend to the development or to determine the oil-bearing character of such contiguous claims.

Sec. 2330. Legal subdivisions of forty acres may be subdivided into ten-acre tracts, and two or more persons, or associations of persons, having contiguous claims of any size, although such claims may be less than ten acres each, may make joint entry thereof; but no location of a placer claim, made after the ninth day of July, eighteen hundred and seventy, shall exceed one hundred and sixty acres for any one person or association of persons, which location shall conform to the United States surveys; and nothing in this section contained shall defeat or impair any bona fide premption or homestead claim upon agricultural lands, or authorize the sale of the improvements of any bona fide settler to any purchaser.

104 U. S. 636; 4 Sawyer 28; 104 U. S. 653; 140 Cal. 440; 14 Mont. 88.

Sec. 2331. Where placer claims are upon surveyed lands, and conform to legal subdivisions, no further survey or plat shall be required, and all placer mining claims located after the tenth day of May, eighteen hundred and seventy-two, shall conform as near as practicable with the United States system of public lands surveys, and the rectangular subdivisions of such surveys, and no such location shall include more than twenty acres for each individual claimant; but where placer claims cannot be conformed to legal subdivisions, survey and plat shall be made as on unsurveyed lands; and where by the segregation of mineral land in any legal subdivision a quantity of agricultural land less than forty acres remains, such fractional portion of agricultural land may be entered by any party qualified by law, for homestead or preemption purposes.

84 Cal. 415; 94 F. R. 383; 78 Cal. 596.

Sec. 2332. (What evidence of possession, etc., to establish a right to a patent). Where such person or association, they and their grantors, have held and worked their claims for a period equal to the time prescribed by the statute of limitations for mining claims of the state or territory where the same may be situated, evidence of such possession and working of the claims for such period shall be sufficient to establish a right to a patent thereto under this chapter, in the absence of any adverse claim; but nothing in this chapter shall be deemed to

impair any lien which may have attached in any way whatever to any mining claim or property thereto attached prior to the issuance of a patent.

127 U. S. 348; 104 U. S. 279; 28 Colo. 364; 114 Cal. 105; 26 Utah 1; 83 Cal. 296.

Sec. 2333. Where the same person, association, or corporation is in possession of a placer claim, and also a vein or lode included within the boundaries thereof, application shall be made for a patent for the placer claim, with the statement that it includes such vein or lode, and in such case a patent shall issue for the placer claim, subject to the provisions of this chapter, including such vein or lode upon the payment of five dollars per acre for such vein or lode claim, and twenty-five feet of surface on each side thereof. The remainder of the placer claim, or any placer claim not embracing any vein or lode claim, shall be paid for at the rate of two dollars and fifty cents per acre, together with all costs of proceedings; and where a vein or lode, such as is described in section twenty-three hundred and twenty, is known to exist within the boundaries of a placer claim an application for a patent for such placer claim which does not include an application for the vein or lode claim shall be construed as a conclusive declaration that the claimant of the placer claim has no right of possession of the vein or lode claim; but where the existence of a vein or lode in a placer claim is not known, a patent for the placer claim shall convey all valuable mineral and other deposits within the boundaries thereof. See G. & T. 3. 441; 116 U. S. 687-696; 124 U. S. 348; 109 U. S. 550; 128 U. S. 673; 100 U. S. 37; 132 U. S. 262; 127 U. S. 353; 124 U. S. 383; 143 U. S. 400; 134 Cal. 350; 135 U. S. 292; 75 Pac. 420.

Sec. 2334. (Surveyor-general to appoint surveyors of mining claims, etc.) The surveyor-general of the United States may appoint in each land district containing mineral lands as many competent surveyors as shall apply for appointment to survey mining claims. The expenses of the survey of vein or lode claims, and the survey and subdivision of placer claims into smaller quantities than one hundred and sixty acres, together with the cost of publication of notices, shall be paid by the applicants, and they shall be at liberty to obtain the same at the most reasonable rates, and they shall also be at liberty to employ any United States deputy surveyor to make the survey. The commissioner of the general land office shall also have power to establish the maximum charges for surveys and publication of notices under this chapter; and, in case of excessive charges for publication, he may designate any newspaper published in a land-district where mines are situated for

the publication of mining-notices in such district, and fix the rates to be charged by such paper; and, to the end that the commissioner may be fully informed on the subject, each applicant shall file with the register a sworn statement of all charges and fees paid by such applicant for publication and surveys, together with all fees and money paid the register and receiver of the land office, which statement shall be transmitted, with the other papers in the case, to the commissioner of the general land office. (R. S.)

Sec. 2335. **(Verification of Affidavits, etc.)** All affidavits required to be made under this chapter may be verified before any officer authorized to administer oaths within the land-district where the claims may be situated, and all testimony and proofs may be taken before any such officer, and, when duly certified by the officer taking the same, shall have the same force and effect as if taken before the register and receiver of the land office. In cases of contest as to the mineral or agricultural character of land, the testimony and proofs may be taken as herein provided on personal notice of at least ten days to the opposing party; or if such party cannot be found, then by publication of at least once a week for thirty days in a newspaper to be designated by the register of the land office as published nearest to the location of such land; and the register shall require proof that such notice has been given. (R. S.)

54 F. R. 252; 44 F. R. 800.

Sec. 2336. (Where Veins Intersect, etc.) Where two or more veins intersect or cross each other, priority of title shall govern, and such prior location shall be entitled to all ore or mineral contained within the space of intersection; but the subsequent location shall have the right of way through the space of intersection for the purpose of the convenient working of the mine. And where two or more veins unite, the oldest or prior location shall take the vein below the point of union, including all the space of intersection. (R. S.)

159 U. S. 658; 101 Cal. 358; 75 Cal. 78; 182 U. S. 505; 27 Colo. 16; 101 Cal. 361.

Sec. 2337. Where non-mineral land not contiguous to the vein or lode is used or occupied by the proprietor of such vein or lode for mining or milling purposes, such non-adjacent surface ground may be embraced and included in an application for a patent for such vein or lode, and the same may be patented therewith, subject to the same preliminary requirements as to survey and notice as are applicable to veins or lodes; but no location hereafter made of such non-adjacent land shall exceed five acres, and payment for the same must be made at the same rate as fixed by this chapter for the superficies of

the lode. The owner of a quartz mill or reduction works, not owning a mine in connection therewith, may also receive a patent for his millsite, as provided in this section.

133 Cal. 637; 28 Colo. 367; 17 Nev. 460; 79 F. R. 890.

Sec. 2338. As a condition of sale, in the absence of necessary legislation by congress, the local legislature of any State or Territory may provide rules for working mines, involving easements, drainage and other necessary means to their complete development; and those conditions shall be fully expressed in the patent.

111 Cal. 577; 182 U. S. 500; 73 Cal. 484.

Sec. 2339. Whenever, by priority of possession, rights to the use of water for mining, agricultural, manufacturing, or other purposes, have vested and accrued, and the same are recognized and acknowledged by the local customs, laws and the decisions of courts, the possessors ond owners of such vested rights shall be maintained and protected in the same; and the right of way for the construction of ditches and canals for the purposes herein specified is acknowledged and confirmed; but whenever any person, in the construction of any ditch or canal, injures or damages the possession of any settler on the public domain, the party committing such injury or damage shall be liable to the party injured for such injury or damage.

101 U. S. 276; 174 U. S. 704; 188 U. S. 553; 175 U. S. 571; 50 Cal. 621; 26 Colo, 74; 133 Cal. 566; 39 Oregon 148; 98 U. S. 453.

Sec. 2340. All patents granted, or pre-empted or homesteads allowed, shall be subject to any vested and accrued water rights, or rights to ditches and reservoirs used in connection with such water rights, as may have been acquired under or recognized by the preceding section.

Sec. 2341. Concerns homesteads upon mineral lands.

Sec. 2342. (How Secretary of the Interior shall set apart mineral lands found to be agricultural.)

Sec. 2343. (Concerns establishment of land districts.)

Sec. 2346. Exempts mineral lands in grants to corporations for the construction of railroads.

MINING CLAIMS IN FOREST RESERVES.

The Congressional act of June 4th, 1897, provides as follows:

"It is not the purpose or intent of these provisions, or of the act providing for such reservations, to authorize the inclusion therein of lands more valuable for the mineral therein, or for agricultural purposes, than for forest purposes."

And in the same act it is provided:

"Nor shall anything herein prohibit any person from entering upon such forest reservations for all proper and lawful purposes, including that of prospecting, locating and developing the mineral resources thereof; provided, that such persons comply with the rules and regulations covering such forest reservations."

The act provides for the restoration to the public domain of tracts more valuable for mining or agricultural purposes, and then proceeds:

"And any mineral lands in any forest reservation which have been or may be shown to be such and subject to entry under the existing mining laws of the United States and the rules and regulations applying thereto, shall continue to be subject to such location and entry notwithstanding any provisions herein contained."

Under these statutes it is now held by the land department that the forest reserves are open to the location of mining claims. There can be no doubt of the meaning of congress upon this subject. Lands within forest reserves are subject to the operation of the mining laws.

MILL SITES.

See Section 2337 R. S. Ante. For Statutory provisions.

Mill sites are located by posting notice and staking by a substantial post or stake at each angle, which ordinary prudence would require to be inscribed with the name of the mill site and the number of the corner. There are no Congressional regulations of the details of such location, but their record should conform to the requirement applicable to the record of all classes of claims, to-wit, that it contain a sufficient description by reference to natural objects or permanent monuments; which terms of the statute are no more than a statement of what is required as a matter of course without such statute. In other words, where any record whatsoever is essential to either original claim or conveyance, it must contain a description sufficient to identify the land intended to be described."

"Post location notice at some conspicuous point on the claim, in substance as follows:

MILL SITE LOCATION NOTICE.

I claim the.....mill site (..... feet.....by.....feet.....) as staked on this ground. Date of location.....

(signature)

.....

And make record in the proper county of the

Location Certificate of Mill Site.

To all whom these presents may concern: Know ye that I, ...of....., do hereby declare and publish as a legal notice to all the world that I have a valid right to the occupation, possession and enjoyment of all and singular that tract or parcel of land, not exceeding five acres, situate, lying and being in the.....Mining district, in the County of....., in the State of ....., bounded and described as follows, to-wit: The .....Mill site, beginning at corner. No one from which.....(description continued) to the place of beginning.

Together with all and singular the hereditaments and appurtenances thereunto belonging or in anywise appertaining.

Witness my hand and seal this.....day of..... in the year of our Lord one thousand nine hundred and.....

(signature) (seal)

.....

State of.....County of.....—ss.

Before me, the subscriber, a notary public in and for said county, personally appeared....., to me personally known to be the same person described in, and who executed the within Location Certificate of Mill Site, and acknowledged that he signed, sealed and published the same as his free and voluntary act and deed for the uses and purposes therein set forth.

Witness my hand and notarial seal, this..... day of ....., 190... My commission expires.....

.....

(Seal) Notary Public.

It is not absolutely necessary that the mill site should be named to comply with the law, but it would be found very inconvenient not to do so. The location of a mill site should be followed by occupancy or improvement. (10 Mining Reports. 377.)

A plot of ground containing five acres is equal to 466.69x466.69 feet is square. To hold land as a mill site it must be non-mineral, non-contiguous to the lode and must be actually used or kept by the owner for mining or milling purposes. It may be used for boarding houses for miners, for ore houses as well as for mining machinery.

The following uses will hold a mill site.

1. Building thereon a pumping plant to carry water to the mine.
2. Storing water thereon to use at the mine.
3. Using the land to store ore or tailings.
4. Placing boarding houses or shops thereon for workmen.
5. Use as a ware-house for storing tools.

A mill site can not be patented to obtain title to water claim or for the timber that is on it.

$500.00 labor on a lode claim is sufficient to patent both lode and mill site if mill site is actually used and occupied.

TIMBER.

An Act authorizing the citizens of Colorado, Nevada and the Territories to fell and remove timber on the public domain for mining and domestic purposes. Approved June 3, 1878. (20 Stat. L., 88.)

That all citizens of the United States and other persons, bona fide residents of the State of Colorado or Nevada, or either of the Territories of New Mexico, Arizona, Utah, Wyoming, Dakota, Idaho or Montana, and all other mineral districts of the United States, shall be, and are hereby authorized and permitted to fell and remove, for building, agricultural, mining, or other domestic purposes, any timber or other trees growing or being on the public lands, said lands being mineral, and not subject to entry under existing laws of the United States, except for mineral entry, in either of said states, territories or districts of which such citizens or persons may be at the time bona fide residents, subject to such rules and regulations as the Secretary of the Interior may prescribe for the protection of the timber and of the undergrowth growing upon such lands, and for other purposes: **Provided,** the provisions of this act shall not extend to railroad corporations.

Sec. 2. (Provides that registers and receivers of land offices shall ascertain whether timber is being cut for other purposes than mentioned above.)

Sec. 3. (This section provides a penalty for violation of this act.)

MINING ON TOWN SITES.

An Act to repeal the timber culture laws, and for other purposes. Approved March 3, 1891. (26 Stat. L., 1095.) In this act may be found the following:

Sec. 16. That town site entries may be made by incorporated towns and cities on the mineral lands of the United States, but no title shall be acquired by such towns or cities to any vein of gold, silver, cinnabar, copper or lead, or to any valid mining claim or possession held under existing law. When

mineral veins are possessed within the limits of an incorporated town or city, and such possession is recognized by local authority or by the laws of the United States, the title to town lots shall be subject to such recognized possession and the necessary use thereof, and when entry has been made or patent issued for such town sites to such incorporated town or city, the possessor of such mineral vein may enter and receive patent for such mineral vein, and the surface ground appertaining thereto: **Provided,** that no entry shall be made by such mineral-vein claimant for surface ground where the owner or occupier of the surface ground shall have had possession of the same before the inception of the title of the mineral-vein applicant.

COAL LANDS.

Sec. 2347. (Entry of Coal Lands.) Every person above the age of twenty-one years, who is a citizen of the United States, or who has declared his intention to become such, or any association of persons severally qualified as above, shall, upon application to the register of the proper land office, have the right to enter, by legal subdivisions, any quantity of vacant coal lands of the United States not otherwise appropriated or reserved by competent authority, not exceeding one hundred and sixty acres to such individual person, or three hundred and twenty acres to such association, upon payment to the receiver of not less than ten dollars per acre for such lands, where the same shall be situated more than fifteen miles from any completed railroad, and not less than twenty dollars per acre for such lands as shall be within fifteen miles of such road. (R. S.)

123 U. S. 325; 137 U. S. 169.

Sec. 2348. (Pre-emption of Coal Lands.) Any person or association of persons severally qualified, as above provided, who have opened and improved, or shall hereafter open and improve, any coal mine or mines upon the public lands, and shall be in actual possession of the same, shall be entitled to a preference-right of entry, under the preceding section, of the mines so opened and improved. Provided, That when any association of not less than four persons, severally qualified as above provided, shall have expended not less than five thousand dollars in working and improving any such mine or mines, such association may enter not exceeding six hundred and forty acres, including such mining improvements. (R. S).

Pre-emption Claims of Coal-Land to be Presented Within Sixty Days, etc.

Sec. 2349. All claims under the preceding section must be presented to the register of the proper land district within

sixty days after the date of actual possession and the commencement of improvements on the land, by the filing of a declaratory statement therefor; but when the township plat is not on file at the date of such improvement, filing must be made within sixty days from the receipt of such plat at the district office; and where the improvements shall have been made prior to the expiration of three months from the third day of March, eighteen hundred and seventy-three, sixty days from the expiration of such three months shall be allowed for the filing of a declaratory statement, and no sale under the provisions of this section shall be allowed until the expiration of six months from the third day of March, eighteen hundred and seventy-three. (R. S.)

123 U. S. 313.

Only One Entry Allowed.

Sec. 2350. The three preceding sections shall be held to authorize only one entry by the same person or association of persons; and no association of persons , any member of which shall have taken the benefit of such sections, either as an individual or as a member of any other association, shall enter or hold any other lands under the provisions thereof; and no member of any association which shall have taken the benefit of such sections shall enter or hold any other lands under their provisions; and all persons claiming under section twenty-three hundred and forty-eight shall be required to prove their respective rights and pay for the lands filed upon within one year from the time prescribed for filing their respective claims; and upon failure to file the proper notice, or to pay for the land within the required period, the same shall be subject to entry by any other qualified applicant. (R. S.)

Conflicting Claims.

Sec. 2351. In case of conflicting claims upon coal-lands, where the improvements shall be commenced, after the third day of March, eighteen hundred and seventy-three, priority of possession and improvement, followed by proper filing and continued good faith, shall determine the preference-right to purchase. And also where improvements have already been made prior to the third day of March, eighteen hundred and seventy-three, division of the land claimed may be made by legal subdivisions, to include, as near as may be, the valuable improvements of the respective parties. The commissioner of the general land office is authorized to issue all needful rules and regulations for carrying into effect the provisions of this and the four preceding sections.

80 F. R. 429; 44 F. R. 800.

Note.—Call at local U. S. land office, or write to "Commis-

sioner General Land Office, Washington, D. C." for pamphlet on proceeding and forms to enter Coal Lands or for Land Office Rules and Regulations on U. S. Mining Statutes.

TUNNEL SITES.

(For Law on Tunnel Rights, See Sections 2323, 2324.)

LOCATION CERTIFICATE OF TUNNEL.

To All Whom These Presents May Concern:

Know ye, that I, ..., a citizen of the United States, of ....., county of ....., state of ....., do hereby declare and publish as a legal notice to all the world that I have a valid right to the occupancy, possession and enjoyment of the Tunnel and Tunnel Site, located ....., A. D. 19.., for the discovery of mines and the development of lodes, and situate in .... mining district, ... county, state of ....., described as follows, to-wit:

Mouth of tunnel situate .....

Size of tunnel .....

Course of tunnel, from its mouth ..... which last four-mentioned stakes are at the exterior corners of the claim of said tunnel site.

And I claim for line of tunnel ..... feet on each side of the center of the bore or course of the tunnel, and the right to all lodes which may be discovered in the due prosecution of said tunnel within ..... feet on either side of the center of said line.

I also claim a square tract of land 125 feet on each side of the mouth of tunnel and extending ..... feet immediately below the mouth of the tunnel, as staked upon the ground, for dumping purposes.

Together with all and singular the hereditaments and appurtenances thereunto belonging or in any wise appertaining, and all rights granted to the locator as tunnel rights under the terms of section 2323 of the Revised Statutes of the United States.

Witness my hand and seal, this ..... day of ....., A. D. 190..

.....,

State of .....,
County of..... ss.

Before me, the subscriber, a notary public in and for said county, personally appeared .....,
to me personally known to be the same person described in and who executed the within declaration of occupation and acknowledged that he signed, sealed and published the same as his free and voluntary act and deed for the uses anl purposes therein set forth.

Witness my hand and notarial seal this.....day of ....., A. D. 190...

.....,
Notary Public.

State of ....., } ss.
County of..... }

....., of the county of ....., state of ....., being first duly sworn according to law, deposes and says: That he is a citizen of the United States, over the age of twenty-one years; that he is the owner by pre-emption, location and occupation of the foregoing tunnel site, the said tunnel being prosecuted for the development of lodes belonging to said affiant; also for the discovery of other lodes; affiant further says that he has expended in actual work and improvements on said tunnel not less than..... ..... dollars, and that said tunnel has been already run the distance of ..... feet, and that it is bona fide his intention to prosecute work on said tunnel so located and described with reasonable diligence for the purposes therein set forth.

.....,

Subscribed and sworn to before me, this ..... day of ....., A. D. 190...

.....,
Notary Public.

Also place at mouth of tunnel the following:

LOCATION NOTICE.

The ....., Tunnel and Tunnel Site, located this ..... day of ....., ..., by .....

Course .....

Height of tunnel ..... feet; width, ... feet.

I claim all lodes to be discovered in this tunnel, and not previously known to exist within 1500 feet on each side of tunnel, as staked on the ground.

I also claim a dump ..... feet square, as staked.

Dated .....

.....,

FORFEITURE TO CO-OWNER.

(For Law on this subject, see Section 2324).

NOTICE OF FORFEITURE.

To .....:

You are hereby notified that I, the undersigned, have expended during the year ...., the sum of ..... hundred dollars, in labor and improvements on the following described mining claims, being one hundred dollars worth of labor and improvements on each of the following named mining claims, to-wit: Those ..... certain mining claims, situated in the ..... mining district, ... county, state of ....., known and described as follows:

..... mining claim, according to location notice thereof, recorded in Book ..... of Mining Records, page ....., Records of ..... county, state of .....

(Follow with description of remaining claims, as above).

That said work was done and improvements made on said claims during the year ....., in order to hold the said claims under the provisions of Section 2324 of the Revised Statutes of the United States, and the amendments thereto, and the laws of the state of ....., concerning annual labor to be done on mining claims.

That there is due from you to the undersigned the sum of ..... hundred dollars on account of your share of the said ..... hundred dollars expended for annual labor on the said mining claims during the year ....., and

You are hereby notified by the undersigned that if within ninety days from the personal service of this notice upon you, or within ninety days after the service of this notice upon you by publication, you fail, refuse or neglect to contribute your portion of such expenditure, to-wit: the sum of ..... hundred dollars to the undersigned, your interest in said mining claims will become the property of the undersigned, your co-owner, in accordance with the law in such cases made and provided.

Dated ....., state of ....., June ...., 19...

.....

PROOF OF SERVICE OF NOTICE PERSONALLY.

State of .....
County of..... } ss.

....., being duly sworn, says,

that he served the within and foregoing forfeiture notice upon ....., the delinquent co-owner therein named, upon the ..... day of ....., A. D. ...., at said county of ....., by delivering to the said ....., a true copy of the said notice, and explaining the contents thereof, and that the said ..... wholly failed to comply with the demand contained in said notice, or to pay or tender his proportion of said expenditures during the period of ninety days after said date, or at any time since hitherto.

.....

(To be sworn to before Notary Public).

PUBLISHER'S PROOF OF FORFEITURE.

State of .....
County of..... } ss.

(Copy of above notice attached).

....., being duly sworn, saith, that he is the publisher of the ....., a weekly newspaper, published in said county, and that said ..... is the newspaper published nearest to said ..... Lode Claim, and that the above notice was published in said paper fourteen successive weeks, the first publication appearing in the issue of ..... and the last publication in the issue of.....

.....

(To be sworn to before Notary Public).

AFFIDAVIT OF NON-PAYMENT.

State of .....
County of..... } ss.

....., being duly sworn, saith, that ....., the person named in the forfeiture notice attached to the within proof of publication, wholly failed to comply with the demand contained in said notice or to pay or tender his proportion of said expenditures, during the period of said notice or within ninety days thereafter, or at any time.

.....

(To be sworn to before Notary Public).

The Calkins Co.

348 N. Main St.
Los Angeles, Cal

Everything for the Assayer and Chemist

"Advance" Combination Crucible and Muffle Furnace No. 10

10 Melts and 18 Cupellations Simultaneously

Balances, Chemists' Glassware, Crushers, Grinders, Furnaces Crucibles, Hydrocarbon Burners, Acids, Chemicals.

POTASSIUM CYANIDE
and
ZINC SHAVINGS.

ARIZONA MINING LAWS

(See Also U. S. Mining Laws)

Secs. 1772, 1773, 1774, 1775 and 1776 provides for summary sales of mining claims and interests therein belonging to estates by order of Probate Court.

Secs. 2013, 2014, 2015, 2016 and 2017, provide for optional sales on mines by guardians, etc.

Sec. 2746 provides that injunctions against working mines shall only be granted upon notice.

2904. All miners, laborers and others who may labor, and all persons who may furnish material of any kind designed or used in or upon any mine or mining claim, and to whom any sum is due for such labor or material shall have a lien upon the same for such sums as are unpaid.

2 Ariz. 326; 4 Ariz. 200; 7 Ariz. 258; 7 Ariz. 399.

3231. (Section 1.) On the discovery of mineral in place on the public domain of the United States, the same may be located as a mining claim by the discoverer for himself, or for himself and others, or for others.

Citizenship—5 Ariz. 152; 3 Ariz. 6; 6 Ariz. 323.

Location by Agent—1 Ariz. 99.

Local Laws of Miners—1 Ariz. 99; 1 Ariz. 493.

Possession—1 Ariz. 404; 3 Ariz. 6.

3232. (Sec. 2.) Such location shall be made by erecting at or contiguous to the point of discovery a conspicuous monument of stones not less than three feet in height, or an upright post, securely fixed, projecting at least four feet above the ground, in which monument of stones or on which post there shall be posted a location notice, which shall be signed by the name or names of the locator or locators. The location notice must contain:

1. The name of the claim located.
2. The name or names of the locators.
3. The date of the locations.
4. The length and width of the claim in feet, and the distance in feet from the point of discovery to each end of the claim.
5. The general course of the claim.
6. The locality of the claim with reference to some natural object or permanent monument whereby the claim can be identified.

What Claim Includes—1 Ariz. 426; 4 Ariz. 34; 7 Ariz. 95.

Location Notice and Amendment—2 Ariz. 272; 4 Ariz. 34;

3 Ariz. 6; 6 Ariz. 79; 6 Ariz. 55; 6 Ariz. 623; 6 Ariz. 263; 7 Ariz. 95.

Relocation—2 Ariz. 347; 2 Ariz. 326; 6 Ariz. 55.

3233. (Sec. 3.) Until each and all of the above specified things shall have been done, no right thereto shall have been acquired.

3234. (Sec. 4.) From the time of the location of a mining claim, as above specified, the locator shall be allowed ninety days within which to do or cause to be done the following things:

1. To cause to be recorded in the office of the county recorder of the county in which the claim is situated a copy of the location notice.

2. To sink a discovery shaft in the claim to a depth of at least ten feet from the lowest part of the rim of the shaft at the surface, and deeper, if necessary, until there is disclosed in said shaft mineral in place.

3. To monument the claim on the ground so that its boundaries can be easily traced.

Location Work—2 Ariz. 407.

Recording Notice—1 Ariz. 493; 3 Ariz. 6; 6 Ariz. 55.

3235. (Sec. 5.) The failure to do all the things enumerated in this section in the time and place specified shall be construed into an abandonment of the claim, and all right and claim thereto of the discoverer and locator shall be forfeited.

3236. (Sec. 6.) Such surface boundary shall be marked by six substantial posts projecting at least four feet above the surface of the ground, or by substantial stone monuments at least three feet high, to-wit: One at each corner of said claim and one at the center of each end line thereof.

3237. (Sec. 7.) Any open cut, adit or tunnel which shall be made as above provided for, as a part of the location of a lode mining claim, and which shall be equal in amount of work to a shaft ten feet deep and four feet wide by six feet long, and which shall cut a lode or mineral in place at a depth of ten feet from the surface, shall be equivalent, as a discovery work, to a shaft sunk from the surface.

3238. (Sec. 8.) Location notices may be amended at any time and the monuments changed to correspond with the amended location; PROVIDED, That no change shall be made that will interfere with the rights of others.

3239. (Sec. 9.) The amount of assessment or representation work or improvements to be done or made during each year, after the completion of the location as heretofore provided,

and the time for doing the same, shall be as provided by the laws of the United States.

2 Ariz. 407; 6 Ariz. 55; 6 Ariz. 623.

3240. (Sec. 10.) Within three months after the expiration of the period of time fixed for the performance of annual labor or the making of improvements upan any mining claim, the person on whose behalf such work or improvement was made, or some person for him knowing the facts, may make and record in the office of the county recorder of the county wherein such claim is situated, an affidavit, in substance as follows:

Territory of Arizona, County of.....—ss.

.....being duly sworn, deposes and says that he is a citizen of the United States and more than twenty-one years of age, resides at.....in County, Arizona Territory, and is personally acquainted with the mining claim known as.....mining claim, situated in.....mining district, Arizona Territory, the location notice of which is recorded in the office of the County Recorder of said county, in book.....of Records of Mines, at page..... That between the..... day of..... A. D. ....., and the .....day of .....A. D. ....., at least.....dollars' worth of work and improvements were done and performed upon said claim, not including the location work of said claim. Such work and improvements were made by and at the expense of....., owners of said claim, for the purpose of complying with the laws of the United States pertaining to assessments of annual work, and (here name the miners or men who worked upon the claim in doing the work) were the men employed by said owner and who labored upon said claim, did said work and improvements, the same being as follows, to-wit: Here describe the work done.)

Signature.....

Subscribed and sworn to before me this....day of..... A. D. .....

My commission as Notary Public expires on the.....day of .....A. D. .....

(Notarial Seal.) .....

Notary Public.

3241. (Sec. 11.) Such affidavit, when so recorded, shall be prima facie evidence of the performance of such labor or the making of such improvements, and said original affidavit, after it has been recorded, or a certified copy thereof, or the record thereof, shall be received as evidence accordingly by the courts

of this Territory. The location of an abandoned or forfeited claim shall be made in accordance with the provisions of paragraph 3232 (Sec. 2.), of Title 47, Chapter XLVII, of the Revised Statutes of Arizona, 1901, except that the relocator may, if he so elect, perform his location work by sinking the original location shaft ten feet deeper than it was originally, or in case the original location work consisted of a tunnel or open cut, he may perform his location work by extending said tunnel or open cut by removing therefrom 240 cubic feet of rock or vein material.

The above section is as amended March 12, 1907.

Abandonment and Forfeiture—1 Ariz. 493; 6 Ariz. 55; 6 Ariz. 323; 6 Ariz. 103; 6 Ariz. 263.

Relocation—2 Ariz. 347; 2 Ariz. 326; 6 Ariz. 55.

3242. (Sec. 12.) The locator of a placer mining claim shall locate his claim in the following manner: By posting a location notice thereon containing the name of the claim, the name of the locator or locators, the date of location and the number of acres claimed, a description of the claim with reference to some natural object or permanent monument that will identify the claim by marking the boundaries of his claim with a post or monument of stones at each angle of the claim, located. When a post is used it must be at least four inches thick by four feet six inches in length, set one foot in the ground and surrounded by a mound of stone or earth.

3243. (Sec. 13.) Where it is practically impossible on account of a bed rock or precipitous ground to sink such posts, they may be placed in a pile of stones. And if for any reason it is impossible to erect and maintain a post or monument of stone at any angle of such claim, a witness post or monument may be used, said witness monument to be placed as near the true corner as the nature of the ground will permit. When a mound of stone is used, it must be at least three feet in height and four feet in diameter at the base.

3244. (Sec. 14.) The locator of any placer claim shall, within sixty days after the date of location of such claim, have a copy of the location notice claim recorded in the office of the county recorder of the county in which said placer claim may be situated. Any record of the location of a placer mining claim which shall not contain all the requirements of this section shall be void.

3245. (Sec. 15.) Whenever a co-owner or co-owners shall give to a delinquent co-owner or co-owners the notice in writing or notice by publication provided for in section twenty-three hundred and twenty-four (2324) of the Revised Statues of the

United States, an affidavit of the persons giving such notice, stating the time, place, manner of service, and by whom and upon whom such service was made, shall be attached to a true copy of such notice, and such notice and affidavit must be recorded in the office of the county recorder of the county in which the mining claim is situate within ninety (90) days after giving the notice; or, if such notice is given by publication in a newspaper, there shall be attached to a printed copy of such notice an affiadavit of the editor, publisher or foreman of such paper, stating the date of the first, last and each insertion of such notice therein, and when and where the newspaper was published during that time and the name of such newspaper. Such affidavit and notice shall be recorded as aforesaid within one hundred and eighty days after the first publication thereof.

194 U. S. 248; 150 U. S. 585.

3246. (Sec. 16.) The original of such notice and affidavits, or the records thereof, shall be evidence that the delinquent mentioned in Section 2324 has failed or refused to contribute his proportion of the expenditure required by that section, and of the services of publication of said notice; Provided, The writing affidavit hereinafter provided for is not of record.

3247. (Sec. 17.) If such delinquent shall, within the ninety days required by Section 2324 aforesaid, contribute to his co-owner or co-owners his proportion of such expenditures, such co-owners shall sign and deliver to the delinquent, or delinquents a writing, stating that the delinquent or delinquents, by name, has, within the time required by Section 2324 of the Revised Statutes of the United States, contributed his share for the year.....upon the ..... mine, and further stating therein the districts, county and territory wherein the same is situate, and the book and page where the location notice is recorded. Such writing shall be recorded in the office of the county recorder of said county.

3248. (Sec. 18.) If such co-owner or co-owners shall fail to sign and deliver such writing to the delinquent or delinquents within twenty days after such contribution, the co-owner or co-owners, so failing as aforesaid, shall be liable to a penalty of one hundred dollars, to be recovered by any person for the use of the delinquent or delinquents in any court of competent jurisdiction. If such co-owner or co-owners fail to deliver such writing within said twenty days, then the delinqeunt, with two disinterested persons having personal knowledge of such contribution, may make an affidavit, setting forth in what manner, the amount of, to whom and upon what mine such contribution

was made. Such affidavit or a record thereof, in the office of the county recorder of the county in which said mine is situate, shall be prima facie evidence of such contribution.

3249. (Sec. 19.) In all actions, judgments, grants or conveyances it shall be a sufficient description of a mining claim if it can be intelligently learned therefrom the name of the claim, the district, county and territory where it is situate, and the book and page where the location notice thereof is recorded.

Sales—6 Ariz. 103; 7 Ariz. 258.

Leases—7 Ariz. 399.

3250. (Sec. 20.) The county recorders of the several counties are authorized and required to procure suitable books in which the records of all mines and mineral deposits shall be kept, which said books shall be paid for out of the county treasury.

3251. (Sec. 21.) Nothing in this act shall be so construed as to effect the claims to mines and mineral deposits heretofore located and duly recorded.

Secs. 3252, 3253, 3254, 3255, 3256 and 3257 provide for joint drainage of adjoining mines by different owners.

3258. (Sec. 28.) The regents of the University of Arizona shall charge for assaying ores taken from deposits and mines within the territory of Arizona no higher rate than one dollar for each assay producing gold and silver, and two dollars for assays producing gold, silver and copper, and two dollars and fifty cents for assaying ores showing more than three metals; and the maximum rate for an assay shall be two dollars and fifty cents and the minimum rate for an assay shall be one dollar.

3259. (Sec. 29.) There shall be a uniform fee of one dollar charged by each county recorder in the territory of Arizona for recording each notice of location of a mining claim, including certificate of work done to comply with the law regarding locations, the said one dollar to be in full for filing, recording and indexing said notice and certificate and certifying to the same under seal.

For laws concerning uniform system of bell signals in mines, see page 118, 1907 Session Laws of Arizona. Too long for this book.

ARIZONA FORM OF LOCATION NOTICE.

NOTICE OF MINING LOCATION

Lode Claim

To All Whom It May Concern:

This mining claim, the name of which is the .....mining claim, situate on lands belonging to the United States of America, and in which there are valuable mineral deposits, was entered upon and located for the purposes of exploration and purchase by..... .....(Locator must insert either "a citizen of the United States," or, "who has declared his intention to become a citizen of the United States.") the undersigned, on the.....day of.....190..

The length of this claim is.....feet, and..... claim.....feet, in a.....direction and feet in a.....direction from the center of the discovery shaft, at which this notice is posted, lengthwise of the claim, together with.....feet in width of the surface grounds, on each side of the center of said claim. The general course of the lode deposit and premises is from the.....to the.....

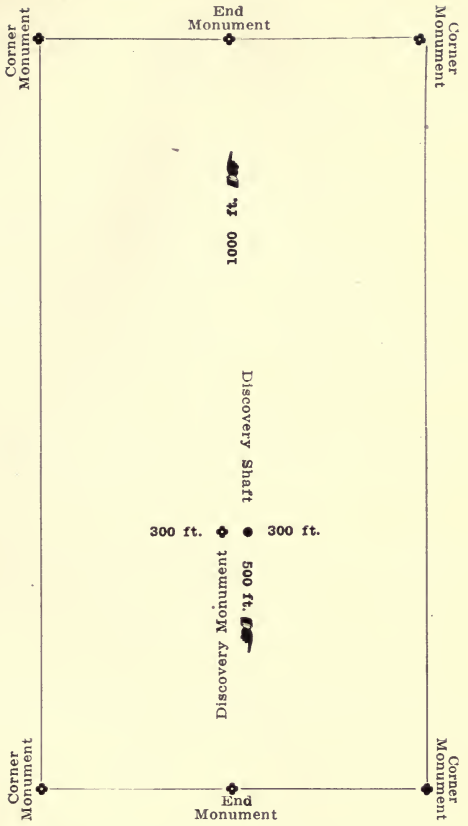
The claim is situated and located in the.....mining district, in.....County, in the Territory of Arizona, about.....in a direction from.....

The surface boundaries of the claim are marked upon the ground as follows: Beginning at.....at a point in a .....direction.....feet from th ediscovery shaft (at which this notice is posted,) being in the center of the .....end line of said claim; thence..... feet to a....., being the.....corner of said claim; thence.....feet to a .....being at the.. .....corner of said claim; thence.....feet to a.....at the center of the.....end of said claim; thence.....feet to a....., being at the .....corner of said claim; thence.....feet to a .....at the.....corner of said claim; thence.....feet to the place of beginning.

All done under the provisions of Chapter Six, of Title XXXII, of the Revised Statutes of the United States, and of an act of the general assembly of Arizona, entitled "An act to Revise and Codify the Laws of the Territory of Arizona," approved March 16, 1901.

Dated and posted on the ground this.....day of .....190..

Witness..... .....



This diagram is to give locator a general idea of plan of location under the new law. The Discovery Shaft can be in the center of claim or any distance from either end desired. In the diagram it is placed 500 feet from one end and 1000 feet from the other. Commence description of claim at a center end monument, giving its distance and direction from center of Discovery Shaft; thence bound the claim in either direction. In description be careful to state locality of claim with reference to some natural object, or permanent monument, as will identify the claim.

ARIZONA.

AFFIDAVIT OF LABOR PERFORMED AND IMPROVEMENTS MADE.

Territory of Arizona,
County of.....—ss.

....., being duly sworn, deposes and says that he is a citizen of the United States and more than twenty-one years of age, and resides at.....in .....County, Arizona Territory, and is personally acquainted with the mining claim known as..... .....mining claim, situate in.....Mining District, County of....., Arizona Territory, the location notice of which is recorded in the office of the County Recorder of said County, in Book.....of records of Mines, at page.....; that between the.....day of..... A. D. 190.., and the.....day of..... A. D. 190.., at least.....dollars' worth of work and improvements were done and performed upon said claim, not including the location work of said claim. Such work and improvements were made by and at the expense of..... .... owner..of said claim, for the purpose of complying with the law of the United States pertaining to assessment of annual work, and .... were the men employed by said owner..and who labored upon said claim, did said work and improvements, the same being as follows, to-wit: ....

Subscribed and sworn to before me this.....day of .....A. D. 190..

.....
Notary Public.

(My commission expires.....)

AFFIDAVIT OF LABOR PERFORMED AND IMPROVEMENTS MADE ON GROUP OF CLAIMS.

Territory of Arizona, County of ss.

....., being duly sworn deposes and says that he is a citizen of the United States and more than twenty-one years of age, and resides at..... in..... County, Arizona Territory, and is personally acquainted with those certain mining claims and premises located and known as the ..... mining claim or lode, and the ..... mining claim or lode, both situated in the Vulture Mining District, County of Maricopa and Territory of Arizona, and notices of location of which mining claims and premises are recorded in the office of the County Recorder of said County of Maricopa, as follows to-wit:.....

The location notice of said ..... mining claim in Book ....., page ....., of Records of Mines, and the location notice of said ..... mining claim in Book ..... of Records of Mines at page..... That between the .....day of..... A. D. 190...., and the .....day of..... A. D. 190...., at least two hundred (200) dollars worth of work and improvements were done and performed upon said ..... mining claims, not including the location work of either of said.....or..... mining claims, which said two hundred (200) dollars worth of work was performed and done for the purpose of developing both of said mining claims and to develop each of said mining claims, as both of said mining claims adjoin each other and are extensions of each other and the two said imning claims constitute one group; and the tendency of said work was to developed each and all of said mining claims; That said work and improvements were made by and at the expense of ....., one of the owners of said premises and mining claims for the purpose of complying with the laws of the United States and of the Territory of Arizona, pertaining to assessment or annual work, and..... .... were the men employed by the said owner and who labored upon said mining claims and premises and who did said work and improvements, and said work so done upon said premises is described as follows, to-wit:.....

.....

Subscribed and sworn to before me this.....day of ....., A. D. 1904.

My commission expires.....

.....

Notary Public in and for the County of....., Territory of Arizona.

ARIZONA

NOTICE OF LOCATION OF PLACER CLAIM.

For this form use the same given under California Laws.

Newberry's

Both Phones Ex. 26 **The Grocer** **Both Phones Ex. 26**

We make a specialty of Supplies for Miners, Prospectors and Campers.

A separate department maintained for such supplies, and your convenience.

We solicit your business and shall be glad to quote you prices.

Our Fall Retail Catalogue just issued. Full of suggestions.

CORRESPONDENCE INVITED

Address "Wholesale Dept."

J. R. NEWBERRY CO.

216-218 So. Spring St.

Los Angeles, - - California

CALIFORNIA MINING LAWS

(See Also U. S. Mining Laws)

Sec. 586. (Civil Code.) Any corporation organized in this State for the purpose of mining or carrying on mining operations in or without this state, may establish and maintain agencies in other states of the United States, for the transfer and issuing of their stock; and a transfer or issue of the same at any such transfer agency, in accordance with the provisions of its by-laws, is valid and binding as fully and effectually for all purposes as if made upon the books of such corporation at its principal office within this state. The agencies must be governed by the by-laws and the directors of the corporation.

142 Cal. 391; 127 Cal. 605; 92 Cal. 503.

Sec. 587. (Civil Code.) All stock of any such corporation, issued at a transfer agency, must be signed by the president and secretary of the corporation, and countersigned at the time of its issue by the agent having charge of the transfer agency. No stock must be issued at a transfer agency unless the certificate of stock, in lieu of which the same is issued, is at the time surrendered for cancellation.

Sec. 587a. (Civil Code.) It is lawful for two or more corporations formed or that may hereafter be formed, under the laws of this state, for mining purposes, which own or possess mining claims or lands adjoining each other, or lying in the same vicinity, to consolidate their capital stock, debts, property, assets, and franchises, in such manner and upon such terms as may be agreed upon by the respective boards of directors or trustees of such corporations so desiring to consolidate their interests; but no such consolidation must take place without the written consent of the stockholders representing two-thirds of the capital stock of each corporation, and no such consolidation can, in any way, relieve such corporations, or the stockholders thereof, from any and all just liabilities; and in case of such consolidation, due notice of the same must be given, by advertising, for one month, in at least one newspaper in the county where the said mining property is situated, if there is one published therein, and also in one newspaper published in the county where the principal place of business of any of said corporation is. And when the consolidation is completed, a certificate thereof, containing the manner and terms of such consolidation, must be filed in the office of the county clerk of the county in which the original certificate of incorporation of each of said corporations is filed, and a copy thereof must be filed

in the office of the secretary of state; such certificate must be signed by a majority of each board of trustees or directors of the original corporations, and it is their duty to call, within thirty days after the filing of such certificate, a meeting of the stockholders of all of said corporations so consolidated, to elect a board of trustees or directors for the consolidated corporation, for the year thence next ensuing; and to cause notice of the time and place fixed for such meeting to be mailed to each stockholder of each of such corporations at his last known place of residence or business at least ten days before the time fixed for such meeting. The said certificate must also contain all the requirements prescribed by section two hundred and ninety.

81 Cal. 378; 104 U. S. 450.

Sec. 588. (Civil Code.) It is the duty of the secretary of every corporation formed for the purpose of mining, or conducting mining in California, whether such corporation be formed and organized under the laws of the State of California or of any other state, territory, or foreign country, to keep at some place within the State of California an office and in such office to keep a complete set of books showing all receipts and expenditures, of such corporation, the sources of such receipts, and the objects of such expenditures, and also all transfers of stock. All books and papers must, at all times during business hours, be open to the inspection of any stockholder. He is entitled to be accompanied by an expert, and to make copies or extracts from any such books or papers. He may, at reasonable hours, examine such mining property, accompanied by an expert, take samples, and make such other examination as he may deem necessary. It is the duty of the directors, on the second Monday of each and every month, to cause to be made an itemized account or balance sheet for the previous month, embracing a full and complete statement of all disbursements and receipts, showing from what sources such receipts were derived, and to whom and for what object or purpose such disbursements or payments were made; also all indebtedness or liabilities incurred or existing at the time, and for what the same were incurred, and the balance of money, if any, on hand. Such account or balance sheet must be verified under oath by the president and secretary, and posted in some conspicuous place in the office of the company. It is the duty of the superintendent, on the first Monday of each month, to file with the secretary an itemized account, verified under oath, showing all receipts and disbursements made by him for the previous month, and for what said disbursements were made. Such account must also contain a verified statement showing the number of men employed under him, and for what purpose, and the rate of wages paid to each. He

must attach to such account a full and complete report, under oath, of the work done in said mine, the amount of ore extracted, from what part of mine taken, the amount sent to mill for reduction, its assay value, the amount of bullion received, the amount of bullion shipped to the office of the company or elsewhere, and the amount, if any, retained by the superintendent. It is his duty to forward to the office of the company a full report, under oath, of all discoveries of ores or mineral-bearing quartz made in said mine, whether by boring, drifting, sinking or otherwise, together with the assay value thereof. All accounts, reports and correspondence from the superintendent must be kept in some conspicuous place in the office of said company, open to the inspection of all stockholders.

61.

92 Cal. 580; 92 Cal. 503; 119 Cal. 358; 81 Cal. 231; 51 Fed.

Sec. 589. (Civil Code.) Any stockholder of a corporation formed under the laws of this state for the purpose of mining, is entitled to visit, accompanied by his expert, and examine the mine or mines owned by such corporation, and every part thereof, at any time he may see fit; and when such stockholder applies to the president of such corporation, he must immediately cause the secretary thereof to issue and deliver to such applicant an order, under the seal of the corporation, directed to the superintendent, commanding him to show and exhibit such parts of said mine or mines as the party named in said order may desire to visit and examine. It is the duty of the superintendent, on receiving such order, to furnish such stockholder every facility for making a full and complete inspection of said mine or mines, and the workings therein, and to accompany said stockholder either in person, or to furnish some person familiar with said mine or mines to accompany him in his visit to and through such mine or mines, and every part thereof. If the superintendent fails to obey such order, such stockholder is entitled to recover, in any court of competent jurisdiction, against the corporation, the sum of one thousand dollars, and traveling expenses to and from the mine, as liquidated damages, together with costs of suit. In case of such refusal, it is the duty of the directors of the corporation forthwith to remove the officer so refusing, and thereafter he must not be employed directly or indirectly by the corporation, nor must any salary be paid to him.

Sec. 590. (Civil Code.) In case of the refusal or neglect of the president to cause to be issued by the secretary the order mentioned in section five hundred and eighty-nine, such stockholder is entitled to recover against said president the sum of one thousand dollars and costs, as provided in the last section. If the directors fail to have the reports and accounts current made and posted, as provided in section five hundred and

eighty-eight, they are liable, either severally or jointly, to an action by any stockholder complaining thereof, and on proof of such refusal or failure, he may recover judgment for actual damages sustained by him, with costs of suit. Each of such defaulting directors is also liable to removal for such neglect.

72 Cal. 305; 89 Cal. 52; 119 Cal. 358; 135 Cal. 375; 92 Cal. 580.

Sec. 661. (Civil Code.) Fixtures attached to mines. Sluice-boxes, flumes, hose, pipes, railway tracks, cars, blacksmith shops, mills and all other machinery or tools used in working or developing a mine, are to be deemed affixed to the mine. (En. March 21, 1872.)

76 Cal. 578; 118 Cal. 635; 118 Cal. 148; 14 Cal. 59; 24 Pac. 920.

Sec. 819. (Civil Code.) A tenant for years or at will, unless he is a wrong-doer by holding over, may occupy the buildings, take the annual product of the soil, work mines and quarries open at the commencement of his tenancy. 101 Cal. 425, 115 Cal. 622.

Sec. 1159. (Civil Code.) Judgments may be recorded without acknowledgement. Judgments affecting the title to or possession of real property authenticated by the certificate of the clerk of the court in which such judgments were rendered (and notices of location of mining claims), may be recorded without acknowledgement, certificate of acknowledgement or further proof. The record of all notices of location of mining claims heretofore made in the proper office without acknowledgement, or certificate of acknowledgement, or other proof shall have the same force and effect for all purposes as if the same had been duly acknowledged, or proved and certified as required by law. Affidavits showing work or posting of notices upon mining claims may also be recorded in the recorder's office of the county where such mining claims are situated. (En. March 21, 1872. Am'd. 1897, 97.)

129 Cal. 361; 83 Cal. 187.

Sec. 1424. (Civil Code.) Where hydraulic mining can be carried on. The business of hydraulic mining may be carried on within the State of California wherever and whenever the same can be carried on without materiol injury to the navigable streams, or the lands adjacent thereto. (En. Stats. 1893, 337.)

81 Fed. 243; 88 Fed. 664; 79 Cal. 289; 66 Cal. 138.

Sec. 1425. (Civil Code.) Meaning of hydraulic mining. Hydraulic mining within the meaning of this title, is mining by means of the application of water, under pressure, through a

nozzle, against a natural bank. (En. Stats. 1893. 337.)

111 Cal. 571; 121 Cal. 662; 137 Cal. 432; 132 Cal. 297; 124 Cal. 186.

Sec. 2511. When a mining partnership exists. A mining partnership exists when two or more persons who own or acquire a mining claim for the purpose of working it and extracting the mineral therefrom actually engage in working the same. (En. March 21, 1872.)

107 Cal. 504; 128 Cal. 120; 121 Cal. 213; 127 Cal. 520; 89 Cal. 367; 112 Cal. 380.

Sec. 2512. (Civil Code.) Express agreement not necessary to constitute. An express agreement to become partners or to share the profits and losses of mining is not necessary to the formation or existence of a mining partnership. The relation arises from the ownership of shares or interests in the mine and working the same for the purpose of extracting the minerals therefrom. (En. March 21, 1872.)

127 Cal. 520; 42 Cal. 367; 107 Cal. 504.

Sec. 2513. (Civil Code.) Profits and losses, how shared. A member of a mining partnership shares in the profits and losses thereof in the proportion which the interest or share he owns in the mine bears to the whole partnership capital or whole number of shares. (En. March 21, 1872.)

89 Cal. 367.

Sec. 2514. (Civil Code.) Lien of partners. Each member of a mining partnership has a lien on the partnership property for the debts due the creditors thereof, and for money advanced by him for its use. This lien exists notwithstanding there is an agreement among the partners that it must not. (En. March 21, 1872.)

144 Cal. 771; 89 Cal. 367; 66 Cal. 577.

Sec. 2515. (Civil Code.) Mine-Partnership property. The mining ground owned and worked by partners in mining, whether purchased with partnership funds or not, is partnership property. (En. March 21, 1872.)

24 Cal. 569; 28 Cal. 569.

Sec. 2516. Partnership not dissolved by sale of interest. One of the partners in a mining partnership may convey his interest in the mine and business without dissolving the partnership. The purchaser from the date of his purchase, becomes a member of the partnership. (En. March 21, 1872.)

112 Cal. 380; 42 Cal. 367; 19 Cal. 120.

Sec. 2517. (Civil Code.) Purchaser takes, subject to liens,

unless, etc. A purchaser in an interest in the mining ground of a mining partnership takes it subject to the liens existing in favor of the partners for debts due all creditors thereof, or advances made for the benefit of the partnership, unless he purchased in good faith, for a valuable consideration, without notice of such lien. (En. March 21, 1872.)

Sec. 2518. (Civil Code.) Takes with notice of lien, when. A purchaser of the interest of a partner in a mine when the partnership is engaged in working it, takes with notice of all liens resulting from the relation of the partners to each other and to the creditors of the partnership. (En. March 21, 1872.)

42 Cal. 180; 42 Cal. 636.

Sec. 2519. (Civil Code.) Contract in writing, when binding. No member of a mining partnership or other agent or manager thereof can, by a contract in writing, bind the partnership, except by express authority derived from the members thereof. (En. March 21, 1872.)

42 Cal. 367; 42 Cal. 180; 23 Cal. 198.

Sec. 2520. (Civil Code.) Owners of majority of shares govern. The decision of the members owning a majority of the shares or interests in a mining partnership binds it in the conduct of its business. (En. March 21, 1872.)

89 Cal. 367; 42 Cal. 180.

Sec. 2955. This section provides that mining machinery may be chattel mortgaged.

CODE OF CIVIL PROCEDURE.

Sec. 690. (Code of Civil Proc.) Exemption from Executions.

5. The cabin or dwelling of a miner, not exceeding in value the sum of five hundred dollars; also his sluices, pipes, hose, windlass, derrick, cars, pumps, tools, implements, and appliances necessary for carrying on any mining operations, not exceeding in value the aggregate sum of five hundred dollars; and two horses, mules, or oxen with their harness, and food for such horses, mules or oxen for one month, when necessary to be used on any whim, windlass, derrick, car pump, or hoisting gear; and also his mining claim, actually worked by him, not exceeding in value the sum of one thousand dollars.

Sec. 738. Code of Civil Proc., provides for an action to quiet title, with right of trial by jury. Under this section an action may be brought to quiet title to mining property by any person in possession.

Sec. 742. (Code of Civil Proc.) An order may be made to allow a party to survey and measure the land in dispute. The court in which an action is pending for the recovery of real

property, or for damages for an injury thereto, or a judge thereof, may, on motion, upon notice by either party, for good cause shown, grant an order allowing to such party the right to enter upon the property and make survey and measurement thereof, and of any tunnels, shafts, or drifts therein, for the purpose of the action, even though entry for such purpose has to be made through other lands, belonging to parties to the action. En. March 11, 1872. Am'd 1880, 11.

Sec. 743. (Code of Civil Proc.) Order, what to contain, and how served. If unnecessary injury done, the party surveying to be liable therefor. The order must describe the property, and a copy thereof must be served on the owner or occupant; and thereupon such party may enter upon the property, with necessary surveyors and assistants, and make such survey and measurement; but if any unnecessary injury be done to the property, he is liable therefor. En. March 11, 1872.

Sec. 748. (Code of Civil Proc.) Mining claims, actions concerning to be governed by local rules. In actions respecting mining claims, proofs must be admitted of the customs, usages or regulations established and in force at the bar or diggings embracing such claim; and such customs, usages or regulations, when not in conflict with the laws of this state, must govern the decision of the action. (En. March 11, 1872.)

69 Cal. 383; 31 Cal. 393.

Sec. 1183. (Code of Civil Proc.) This section provides that: Mechanics, materialmen, contractors, subcontractors, artisans, architects, machinists, builders, miners, and all persons and laborers of every class performing labor upon or furnishing materials to be used in the construction, alteration, addition to, or repair, either in whole or in part, of any building, wharf, ditch, bridge, flume, aqueduct, well, tunnel, fence, machinery, railroad, wagon road or other structure, shall have a lien upon the property upon which they have bestowed labor or furnished materials, for the value of such labor done and materials furnished, whether at the instance of the owner, or of any other person acting by his authority or under him, as contractor or otherwise; and any person who performs labor in any mining claim or claims, or in or upon any real property worked as a mine, either in the development thereof or in working thereon by the subtractive process, has a lien upon the same, and the works owned and used by the owners for reducing the ores from such mining claim or claims, or real property so worked as a mine, for the work or labor done or materials furnished by each respectively, whether done or furnished at the instance of the owner of such mining claim

or claims or real property worked as a mine or of the building, or other improvement of his agent; and every contractor, subcontractor, architect, builder or other person having charge of any mining, or work and labor performed in and about such mining claim or claims, or real property worked as a mine, or the construction, alteration, addition to or repair, either in whole or in part of any building or other improvement as aforesaid, or of such mining claim or claims, either as lessee or under a working bond or contract thereon, with the privilege of purchase, or otherwise, shall be held to be the agent of the owner for the purposes of this chapter.

Reference is here made to said Section for terms of contract, etc.

Sec. 1187. (Code of Civil Proc.) Provides that such liens shall be filed in the recorder's office; for the provisions of such section reference is here made to the same and to succeeding sections for procedure to enforce mechanics liens.

Secs. 1204 to 1207, inclusive. (Code of Civil Proc.) Provide, in cases of assignment of mining companies, for liens on mining claims and procedure to collect same.

EMINENT DOMAIN.

Sec. 1238. (Code of Civil Proc.) Purposes for which it may be exercised. Subject to the provisions of this title, the right of eminent domain may be exercised in behalf of the following public uses.

5. Roads, tunnels, ditches, flumes, pipes and dumping places for working mines; also outlets, natural or otherwise, for the flow, deposit or conduct of tailings or refuse matter from mines; also an occupancy in common by the owners or possessors of different mines of any place for the flow, deposit, or conduct of tailings or refuse matter from their several mines.

6. By-roads leading from highways to residences, farms, mines, mills, factories and buildings for operating machinery, or necessary to reach any property used for public purposes.

12. Canals, reservoirs, dams, ditches, flumes, aqueducts, pipes and outlets, natural or otherwise, from sources other than a navigable lake, for supplying, storing and discharging water for or in connection with the operation of machinery for the purposes of generating and transmitting electricity for the supply of mines, quarries, railroads, tramways, mills and factories with electric power; and also for the supplying of electricity to light or heat mines, quarries, mills, factories, incorporated cities and counties, villages or towns; and also

for furnishing electricity for lighting, heating or power purposes to individuals or corporations, together with lands, buildings and all other improvements in or upon which to erect, install, place, use or operate machinery for the purpose of generating and transmitting electricity for any of the purposes or uses above set forth.

108 Cal. 90; 73 Cal. 485; 63 Cal. 73.

Sec. 1925. (Code of Civil Proc.) Certificates of purchase primary evidence of ownership. A certificate of purchase or of location of any lands in this state, issued or made in pursuance of any law of the United States or of this state, is primary evidence that the holder or assignee of such certificate is the owner of the land described therein; but this evidence may be overcome by proof that at the time of the location or time of filing a pre-emption claim on which the certificate may have been issued, the land was in the adverse possession of the adverse party, or those under whom he claims, or that the adverse party is holding the land for mining purposes. (En. March 11, 1872.)

91 Cal. 544; 125 Cal. 405; 87 Cal. 299.

Sec. 1927. (Code of Civil Proc.) Whenever any patent for mineral lands within the State of California, issued or granted by the United States of America, shall contain a statement of the date of the location of a claim or claims, upon which the granting or issuance of such patent is based, such statement shall be prima facie evidence of the date of such location.

(Act approved March 16, 1872. Stats. 1871, page 413).

For the Protection of Miners.

Section 1. It shall not be lawful for any corporation, association, owner, or owners of any quartz mining claims within the State of California, where such corporation, association, owner or owners employ twelve men daily, to sink down into such mine or mines any perpendicular shaft or incline beyond a depth from the surface of three hundred feet without providing a second mode of egress from such mine, by shaft or tunnel, to connect with the main shaft at a depth of not less than one hundred feet from the surface.

Modes of escape.

Sec. 2. It shall be the duty of each corporation, association, owner or owners of any quartz mine or mines in this state, where it becomes necessary to work such mines beyond the depth of three hundred feet, and where the number of men employed therein daily shall be twelve or more, to proceed to sink another shaft or construct a tunnel so as to connect with the main working shaft of such mine as a mode of escape from underground accident, or otherwise. And all corporations, as-

sociations, owner or owners of mines, as aforesaid, working at a greater depth than three hundred feet, not having any other mode of egress than from the main shaft, shall proceed as herein provided.

Liabilities.

Sec.3. When any corporation, association, owner or owners of any quartz mine in this state shall fail to provide for the proper egress, as herein contemplated, and where any accident shall occur, or any miner working therein shall be hurt or injured, and from such injury might have escaped if the second mode of egress had existed, such corporation, association, owner or owners of the mine where the injuries shall have occurred shall be liable to the person injured in all damages that may accrue by reason thereof; and an action at law in a court of competent jurisdiction may be maintained against the owner or owners of such mine, which owners shall be jointly or severally liable for such damages. And where death shall ensue from injuries received from any negligence on the part of the owners thereof, by reason of their failure to comply with any of the provisions of this act, the heirs or relatives surviving the deceased may commence an action for the recovery of such damages, as provided by an act entitled An Act Requiring Compensation for Causing Death by Wrongful Act, Neglect or Default, Approved April twenty-sixth, eighteen hundred and sixty-two.

Sec. 4. This act shall take effect and be in force six months from and after its passage.

ACT OF MARCH 31 1891.

Easement, and Drainage of Mines in the State of California.

Section 1. Whenever any mine-owner, company or corporation shall have performed the labor and made the improvements required by law for the location and ownership of mining claims or lodes, such owner, company or corporation shall file or cause to be filed, within thirty days after the time limited for performing such labor, or making such improvements, with the county recorder of deeds of the county in which the mine or claim is situated, (an affidavit), particularly describing the labor performed and improvements made, and the value thereof, which affidavit shall be prima facie evidence of the facts therein stated. Upon the failure of any claimant or mine-owner to comply with the conditions of this act in the performance of labor, or making of improvements upon any claim, mine or mining ground, the claim or mine upon which such failure occurred shall be open to relocation in the same manner as if no location of the same had ever been made. But if, previous to relocation, the original locators, their heirs, assigns or legal representatives, resume work upon such claim, and continue the same with reasonable diligence until the required amount of

labor has been performed or improvements made, and the required statement of accounts and affidavits filed with the county recorder, then the claim shall not be subject to relocation because of previous failure to file accounts. Upon the failure of any one of the several co-owners to contribute his portion of the expenditures required hereby, the co-owners who have performed the labor or made the improvement may, at the expiration of the year, give such delinquent co-owner personal notice, in writing, or by publication in the newspaper published nearest the claim for at least once a week for ninety days; and if, at the expiration of ninety days after such notice in writing or publication, such delinquent shall fail or refuse to contribute his portion of the expenditures required by this section, his interests in the claim become the property of his co-owners, who made the required expenditures. A copy of such notice, together with an affidavit showing personal service or publication, as the case may be, of such notice, when filed or recorded with the recorder of deeds of the county in which such mining claim is situated, shall be evidence of the acquisition of title of such co-owners. Where a person or company has or may run a tunnel or cuts for the purpose and in good faith for the purpose of developing a lode, lodes or claims owned by said person or company or corporation, the money so expended in running said tunnel shall be taken and considered as expended on said lodes or claims; provided further, that said lode, claim or claims shall be distinctly marked on the surface, as provided by law.

Sec. 2. All mining locations and mining claims shall be subject to a reservation of the right of way through or over any mining claims, ditches, roads, canals, cuts, tunnels, and other easements for the purpose of working other mines; provided, that any damage occasioned thereby shall be assessed and paid for in the manner provided by law for land taken for public use under the right of eminent domain.

Sec. 3 This act shall take effect immediately.

Harris v. Kellogg, 117 Cal. 484.

ACT OF MARCH 20, 1903.

Statutes of 1903, Page 283.

Section 1. Provides that all abandoned mining shafts shall be fenced.

Sec. 2. Provides that boards of supervisors may cause shafts on unoccupied public land to be fenced.

Sec. 3. Provides that removing covering or fencing over mining shaft shall be a misdemeanor.

Act 483 to be found in the Session Laws of 1875, at page 853,

provided for the Recording of Mining Claims in Calaveras county.

142 Cal. 411.

Act 2223 of March 27, 1874. For the Protection of Coal Mines and Coal Miners, can be found in the Session Laws of California, 1873-4, at page 726.

Act 2225, of March, 1893, provides for a uniform system of mine bell signals to be used in all mines operated in the State of California.

This act can be found in the Session Law of California, of 1893, at page 82.

Act 2226 of March 24, 1893, provides for the appointment, duties and compensation of a Debris Commissioner, and makes an appropriation to be expended in the discharge of his duties as such commissioner.

This act can be found in the Session Laws of California, of 1893, page 339; of 1897, page 169; of 1901, pages 284 and 564; and in full as amended in General Laws of California, Act No. 2226.

Act. 2227. (General Laws.) This provides that public lands of California, Secs. 16 and 36, are open to mineral entry.

Act 2228. To regulate the rights of owners of mines.

This act gave rights of way to miners, and places of deposits. It has not been repealed in terms, but as County Courts have been abolished, it is probably not in force. It can be found in Statutes of California, 1869-70, of page 569.

CALIFORNIA HYDRAULIC MINING.

For provisions of an Act to create the California Debris Commission and regulate Hydraulic Mining in California.

See Act of Congress, March 1, 1893, ch. 183; 27 U. S. Stat. at Large 507; also Amendment of February 27, 1907, in 34 Stat. at Large, page 1001.

NOTICE OF QUARTZ LODE LOCATION.

Notice is hereby given, That I..... a citizen of the United States, have discovered a vein of rock in place, carrying gold, silver, copper, and other valuable deposits, upon which I have erected a discovery monument and posted this notice, as hereinafter set forth; that in accordance with the provision of Chapter 6, Title 32 of the Revised Statutes of the United States and the laws of the State of California, I hereby claim fifteen hundred linear feet of said vein, measured thereon as hereinafter set forth. Said discovery was made on the.....day of .....

189... Immediately upon making the same, and on the..... day of .....189.., I erected at the point of discovery, a substantial monument, consisting of a mound of rocks and ....., posted thereon this notice.

The * general course of said vein is.....and..... I claim in length thereon .....feet.....and..... feet.....from said discovery monument. I also claim three hundred feet on each side of the center of the vein. This vein or claim shall be known as and called the ..... It is situated in .....Mining District, an in † Sec....., Tp....., R.....S. B. M., in..... County, California, and the discovery monument..... being placed about §..... from .....

That the following is a description of said location as marked on the ground; ‡ commencing at the..... of said claim, a .....from which initial point the discovery monument is distant about..... feet in a.....direction;..... thence‖ ....

Dated and posted on the ground, this.....day of .....190...

Witness.....

.....

.....

Locators.

*Make this description in accordance with the facts, as "The general course of said vein is north and south. I claim in length thereon 500 feet north and 1000 feet south from said discovery monument."

†If the claim is upon surveyed land, give the section, township and range, if possible. This is not required by law, but makes a much better description.

§Here refer to some natural object or permanent monument so as to identify the locality of the claim, in compliance with section 2324, Revised Statutes U. S. A road, house, tree, known mountain or peak, government corner, mill, or known mining claim, etc., are such objects or monuments. As, "About one mile directly east from Jim Budd's quartz mill and 400 rods west from the Lone Star mine," etc.

‡Here state: "Commencing at the N. E. corner of said claim, a mound of rocks 4 ft. high," or at any other corner or point in the boundary; give the distance and direction from this initial monument to the discovery monument, and then locate the discovery with reference to some natural object or permanent monument.

‖Here follows a description of the claim from the initial monument. For instance: "Thence 600 ft. northwesterly to the N. W. corner of said claim, at which point is a mound of rocks 2½ ft. high, marked so and-so (if marked); thence 1500 ft. southwesterly to the S. W. corner of said claim, being a mound of rocks," etc.; so going around the claim to the point of beginning.

NOTICE OF LOCATION OF PLACER CLAIM.

Notice is hereby given, That..... citizen.. of the United States, h.. this ..... day of .....189.. discovered a valuable placer deposit within the limits of this claim; that by virtue of said discovery, ... ha.. located, and hereby locate and claim the following described land, situate in.....Mining District ..... County, California, to-wit:*..... of section ....., Township....., Range..... S. B. M., containing ..... acres.† Said claim is hereby named .....Placer Claim. Said claim is marked upon the ground as follows:‡.....

This notice is posted on a mound of rocks at the point of discovery, situated §.....

Dated and posted on the ground, this.... day of ....., 189..

‖.....

.....

Locator.

For form of Mill Site Location Notice, see U. S. Mining Laws.

For form of Affidavit of Annual Labor, see end of Arizona Mining Laws.

For form of Notice of Forfeiture, see U. S. Mining Laws, at end thereof.

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*The statute provides that the locater must give "a description of the claim by reference to legal subdivisions of sections, if the location is made in conformity with the public surveys; otherwise a description with reference to some natural object or permanent monument as will identify the claim."

†When not described by legal subdivisions, the description should conform to taht contained in the final certificate of location of a lode claim.

‡The statute provides that, whether described by legal subdivisions or not, the location shall be marked by the locator on the ground, and as the affidavit to be filed later is not required to contain a description of the claim, we think this notice should state how the location is marked; as, for instance, "At the N. E. corner of said tract a mound of rocks 3 ft. high, marked so-and-so (if marked), and at the N. W. corner a stake in a mound of rocks, marked," etc., and so on for each monument enclosing the claim.

§Here state where the discovery is located, as, for instance, "20 ft. S. W. of the N. E. corner monument."

‖A duplicate of this notice must be filed for record with the county recorder within thirty days from the discovery; and the locator is allowed thirty days to mark his location on the ground.

R. S. Baverstock H. L. Payne, B. Sc., M. S. E. F. Staples

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MINING LAWS OF NEVADA

As amended March 29, 1907, to take effect July 1, 1907, complete.
(See Also U. S. Mining Laws)

LOCATION AND RELOCATION.

How to Locate.

Sec. 1. Any person, a citizen of the United States, or one who has declared his intention to become such, who discovers a vein or lode, may locate a claim upon such vein or lode by defining the boundaries of the claim in the manner hereinafter described and by posting a notice of such location at the time and point of discovery, which notice must be posted upon one of the several monuments prescribed in section 2 of this act, and such notice must contain:

First—The name of the lode or claim. Second—The name of the locator or locators. Third—The date of the location. Fourth—The number of linear feet claimed in length along the course of the vein, each way from the point of discovery, with the width on each side of the center of the vein, and the general course of the vein or lode as near as may be.

Van Valkenburg v. Huff, 1 Nev. 147; Mallet v. Uncle Sam G. & S. M. Co., 1 Nev. 188; Overman S. M. Co. v. American M. Co., 7 Nev. 312; Phillpotts v. Blasdel, 8 Nev. 61; Wiell v. Lucerne M. Co., 11 Nev. 200; Golden Fleece v. Cable Consolidated M. Co., 12 Nev. 312; Cleeson v. White, 13 Nev. 443; Overman S. M. Co. v. Corcoran, 15 Nev. 147; Rose v. Richmond M. Co., 17 Nev. 25; Poujade v. Ryan, 21 Nev. 449; Brady v. Husby, 21 Nev. 453; 134 F. R. 610.

This Sec. 2, prior to July 1, 1907, was as follows:

Section 1. Any person, a citizen of the United States, or one who has declared his intention to become such, who discovers a vein or lode may locate a claim upon such vein or lode by defining the boundaries of the claim in the manner hereinafter described, and by posting a notice of such location at the point of discovery, which notice must contain: First—The name of the lode or claim. Second—The name of the locator or locators. Third—The date of the location. Fourth—The number of linear feet claimed in length along the course of the vein each way from the point of discovery, with the width on each side of the center of the vein, and the general course of the vein or lode as near as may be.

Discovery Shaft to Be Sunk—Depth Ten Feet—Boundaries of Claim, How Defined.

Sec. 2. The locator of a lode mining claim must sink a discovery shaft upon the claim located 4x6 feet to the depth of at least ten feet from the lowest part of the rim of such shaft at the surface, or deeper if necessary, to show by such work a lode deposit of mineral in place; a cut or crosscut or tunnel which cuts the lode at a depth of ten feet, or an open cut along the said ledge or lode equivalent in size to a shaft four feet by six feet by ten feet deep, is equivalent to a discovery shaft. The locator must define the boundaries of his claim by removing the top of a tree (having a diameter of not less than four inches), not less than three feet above the ground, and blazing and marking the same; or by a rock in place, capping such rock with smaller stones, such rock and stones to have a height of not less than three feet; or by setting a post or stone, one at each corner and one at the center of each side line. When a post is used, it must be at least four inches in diameter by four and one-half feet in length, and set one foot in the ground. When it is practically impossible on account of bedrock or precipitous ground to sink such posts, they may be placed in a mound of earth or stones, or where the proper placing of such posts or other monuments is impracticable or dangerous to life or limb, it shall be lawful to place such posts or monuments at the nearest point, properly marked to designate its right place. When a stone is used, not a rock in place, it must be not less than six inches in diameter and eighteen inches in length, and set two-thirds of its length in the top of a mound of earth or stone four feet in diameter, and two and one-half feet in height. All trees, posts or rocks used as monuments which are not four feet in diameter at the base shall be surrounded by a mound of earth or stones four feet in diameter by two feet in height, which trees, posts, stones or rock monuments must be so marked as to designate the corners of the claim located; provided, however, that the locator of a mining claim shall within twenty days from the date of posting the notice of location define the boundaries of said claim by placing at each corner and the center of each sideline one of the hereinbefore described monuments, and shall within ninety days from the date of posting of said location notice perform the location work hereinbefore prescribed.

Silver M. Co. v. Fall, 6 Nev. 116; Southern Cross G. & S. M. Co. v. Europia M. Co., 15 Nev. 383; Sisson v. Sommers, 24 Nev. 379.

This Sec. 2, prior to July 1, 1907, was as follows:

Sec. 2. Before the expiration of ninety days from the posting of such notice upon the claim the locator must sink a dis-

covery shaft upon the claim located to the depth of at least ten feet from the lowest part of the rim of such shaft at the surface, or deeper if necessary to show by such work a lode deposit of mineral in place. A cut or crosscut, or tunnel, which cuts the lode at a depth of ten feet, or an open cut along the ledge or lode equivalent in size to a shaft four feet by six feet by ten feet deep, is equivalent to a discovery shaft. The locator must define the boundaries of his claim by marking a tree or rock in place, or by setting a post or stone, one at each corner and one at the center of each side line. When a post is used it must be at least four inches square, by four feet six inches in length, set one foot in the ground, with a mound of stone or earth four feet in diameter by two feet in height around the post. When it is practically impossible on account of the bed-rock or precipitous ground to sink such posts, they may be placed in a pile of stones; or where the proper placing of such posts or monuments of stone is impracticable or dangerous to life and limb, it shall be lawful to place such post or monument of stone at the nearest point, properly marked to designate its right place. When a stone is used, not a rock in place, it must be at least six inches square and eighteen inches in length, set two-thirds of its length in the ground, which trees, stakes or monumnets must be so marked as to designate the corner of the claim located. (Sec. 2. This Act shall take effect on the first day of July, 1901.)

WHAT NOTICE SHALL CONTAIN—WHEN LOCATION IS VOID.

Sec. 3. Any locator or locators of a mining claim, after having established the boundaries of said claim, and after complying with the provisions of this act, with reference to the establishment of such boundaries, may file with the district mining recorder a notice of location, setting forth the name given to the lode or vein, the number of linear feet claimed in length along the course of the vein, the date of location, the date on which the boundaries of the claim were completed, and the name of the locator or locators. Should any claim be located in any section or territory where no district has yet been formed, or where there is no district recorder, the locator or locators of such claims may file with the county recorder notice of location as set forth above, and said notice of location will be prima facie evidence in all courts of justice of the first location of said lode or vein. Within ninety days of the date of posting the location notice upon the claim the locator shall record his claim with the mining district recorder

and the county recorder of the mining district, or county, in which such claim is situated by a location certificate, which must contain:

First. The name of the lode or vein.

Second. The name of the locator or locators.

Third. The date of the location and such description of the location of said claim with reference to some natural object or permanent monument as will identify the claim.

Fourth. The number of linear feet claimed in length along the course of the vein each way from the point of discovery, with a width on each side of the center of the vein , and the general course of the lode or vein as near as may be.

Fifth. The dimensions and location of the discovery shaft, or its equivalent, sunk upon the claim.

Sixth. The location and description of each corner, with the markings thereon.

Any record of the location of a lode mining claim which shall not contain all the requirements named in this section shall be void. All records of lode or placer mining claims, millsites or tunnel rights heretofore made by any recorder of any mining district, or any county recorder are hereby declared to be valid and to have the same force and effect as records made in pursuance of the provisions of this act. And any such record, or a copy thereof, duly verified by a mining recorder or duly certified by a county recorder, shall be prima facie evidence of the facts therein stated.

This Sec. 3, prior to July 1, 1907, was as follows:

Sec. 3. Within ninety days of the date of posting the location notice upon the claim, the locator shall record his claim with the mining district recorder and the County Recorder of the mining district or county in which such claim is situated by a location certificate which must contain: First, the name of the lode or vein; second, the name of the locator or locators; third, the date of the location and such description of the location of said claim, with reference to some natural object or permanent monument, as will identify the claim; fourth, the number of linear feet claimed in length along the course of the vein each way from the point of discovery, with a width on each side of the center of the vein, and the general course of the lode or vein as near as may be; fifth, the dimensions and location of the discovery shaft, or its equivalent, sunk upon the claim; sixth, the location and description of each corner, with the markings thereon. Any record of the location of a lode mining claim which shall not contain all the requirements named in this section shall be void. All records of lode or placer mining claims, mill sites or tunnel rights heretofore

made by any recorder of any mining district or any County Recorder are hereby declared to be valid and to have the same force and effect as records made in pursuance of the provisions of this Act. And any such record, or a copy thereof, duly verified by a mining recorder or duly certified by a County Recorder, shall be prima facie evidence of the facts therein stated.

Notice to Claim but One Location

Sec. 4. No notice of location of a lode claim shall claim more than one location, whether the location be made by one or several persons. And if such notice purport to claim more than one location it shall be absolutely void, except as to the first location therein described. And if they are described together, or so that it cannot be told which location is first described the notice of location shall be void as to all.

What Location Includes.

Sec. 5. The location or record of any vein or lode claim shall be construed to include all surface ground within the surface lines thereof, and all lodes and ledges throughout their entire depth, the top or apex of which lies inside of such lines extended downward, vertically with all parts of such lodes or veins as continue to dip beyond the side lines of the claim, but shall not include any portion of such lodes, veins or ledges beyond the end lines of the claim, or the end lines continued, whether by dip or otherwise, or beyond the side lines in any other manner than by the dip of the lode.

End Lines.

Sec. 6. If the top or apex of the lode in its longitudinal course extends beyond the exterior lines of the claim at any point on the surface, or as extended vertically downward, such lode may not be followed in its longitudinal course where it is intersected by the exterior lines.

Jones v. Prospect Tunnel Co., 21 Nev. 339.

Relocation in Case of Defective Certificate.

Sec. 7. If at any time the locator of any mining claim heretofore or hereafter located, or his assigns, shall apprehend that his original certificate was defective, erroneous, or that the requirements of the law had not been complied with before filing; or shall be desirous of changing his surface boundaries or of taking in any part of an overlapping claim which has been abandoned; or in case the original certificate was made prior to the passage of this law, and he shall be desirous of securing the benefits of this Act, such locator or his assigns may file an additional certificate, subject to the provisions of

this Act; provided, that such relocation does not interfere with the existing rights of others at the time of such relocation, and no such relocation or the record thereof shall preclude the claimant or claimants from proving any such titles as he or they may have held under previous location.

Phillpotts v. Blasdel, 8 Nev. 61.

Relocation and Survey.

Work to Be Done on Relocation.

Sec. 8. The relocation of abandoned lode claims shall be by sinking a new discovery shaft and fixing new boundaries, in the same manner as if it were the location of a new claim; or the relocator may sink the original discovery shaft ten feet deeper than it was at the time of abandonment, in which case the record must give the depth and dimensions of the original discovery shaft at the date of such relocation, and erect new or adopt the old boundaries, renewing the posts or monuments if removed or destroyed. In either case a new location stake shall be erected. In any case, whether the whole or part of an abandoned claim is taken, the record may state that the whole or any part of the new location is located as abandoned property. If it is not known to the relocator that his location is on an abandoned claim, then the provisions of this section do not apply.

Sever v. Gergovich, 16 Nev. 325; Rose v. Richmond M. Co., 17 Nev. 25; South End M. Co. v. Tinney, 22 Nev. 19.

Survey and Certificate of Surveyor Become Part of Record.

Sec. 9. Where a locator, or his assigns, has the boundaries and corners of his claim established by a United States deputy mineral surveyor, or a licensed surveyor of this State, and his claim connected with the corner of the public or minor surveys of an established initial point, and incorporates into the record of the claim the field notes of such survey, and attaches to and files with such location certificate a certificate of the surveyor, setting forth: First, that said survey was actually made by him, giving the date thereof; second, the name of the claim surveyed and the location thereof; third, that the description incorporated in the declaratory statement is sufficient to identify. Such survey and certificate becomes a part of the record, and such record is prima facie evidence of the facts therein contained.

LOCATION OF PLACER CLAIM.

Statutes 1899, p. 94.

Location of Placer Claim.

Section 1. The location of a placer claim shall be made in

the following manner: By posting thereon, upon a tree, rock in place, stone, post, or monument, a notice of location, containing the name of the claim, name of locator or locators, date of location, and number of feet or acres, claimed, and by marking the boundaries and the location point in the same manner and by the same means as required by the laws of this State for marking the boundaries of lode claim locations; provided, that where the United States survey has been extended over the land embraced in the location, the claim may be taken by legal subdivisions, and, except the marking of the location point as hereinbefore prescribed, no other markings than those of said survey shall be required.

Relating to Location.

Sec. 2. Within ninety days after the posting of the notice of location of a placer claim, the locator shall perform not less than twenty dollars worth of labor upon the claim for the development thereof, and shall have recorded by the mining district recorder and the County Recorder of the district and county in which the claim is situated a certificate which shall state the name of, the claim, designating it as a placer claim, name of locator or locators, date of location, number of feet or acres claimed, a description of the claim with regard to some natural object or permanent monument, so as to identify the claim, and the kind and amount of work done by him as herein required, and the place on the claim where said work was done. This certificate, or the record thereof, or a duly certified copy of said record, shall be prima facie evidence of the recitals therein. But if such certificate do not state all the facts herein required to be stated, it shall be void.

Note.—A decision of the Supreme Court in the case of Butte City Water Co. vs. Baker practically establishes the validity of the above Act. The case is reported in 196, U. S., page 119.

LOCATION OF TUNNEL RIGHT.

Statutes 1897, p. 108.

Notice to Contain.

Section 1. The locator of a tunnel right or location shall locate his tunnel right or location by posting a notice of location at the face or point of commencement of the tunnel, which must contain: First—The name of the locator or locators. Second—The date of the location. Third—The proposed course or direction of the tunnel. Fourth—The height and width thereof. Fifth—The position and character of the boundary monuments. Sixth—A description of the tunnel by such reference to a natural object or permanent monument as shall identify the claim or tunnel right.

Boundary Lines.

Sec. 2. The boundary lines of the tunnel shall be established by stakes or monuments placed along such lines at an interval of not more than three hundred feet from the face or point of commencement of the tunnel to the terminus of three thousand feet therefrom. The stakes or monuments shall be of the same size and character as those provided for lode or placer claims in this Act.

Locator Shall Record.

Sec. 3. The locator of a tunnel right or location shall, within sixty days of the date of the location, record his location with the mining district recorder and the County Recorder of the county or district in which such location is situated, which must be similar in all respects to the one posted on the location. Any record of a tunnel right or location which shall not contain all the requirements named in this section shall be void.

Relating to Blind Lodes or Veins.

Sec. 4. All blind lodes, or veins or lodes not previously known to exist, discovered in a tunnel run for the development of a vein or lode, or for the discovery of mines, and within three thousand feet from the face of such tunnel, shall be located upon the surface and held in like manner as other lode claims under the provisions of this Act.

Provisions of Act Applicable.

Sec. 5. The provisions of this Act shall be construed as equally applicable to all classes of location except where the requirement as to any one class is manifestly inapplicable to any other class or classes.

LOCATION OF SALINE LANDS.

(Act of Feb. 24, 1865, p. 172.)

Location of Saline Lands.

Section 1. Any person may locate, claim and hold not exceeding one hundred and sixty acres of the public lands within this State containing salt or saline matter.

Duty of Persons Locating Saline Lands.

Sec. 2. It shall be the duty of any person or persons locating salt lands to have the same surveyed by the County Surveyor of the county in which said lands are located, within thirty days from the date of location; and the surveyor shall, within thirty days from the completion of said survey, make and deliver to the party employing him to make the survey, a correct description and plat of the lands thus surveyed, and the same

shall be recorded in the office of the County Recorder of said county within thirty days from the delivery thereof by the surveyor.

Prior Locations Ratified.

Sec. 3. All locations made prior to the passage of this Act upon saline lands are hereby ratified and confirmed to the locators thereof, their heirs and assigns; provided, the parties now holding and occupying said lands shall, within sixty days from the passage of this Act, have the same surveyed and recorded as provided in section two of this Act.

When Subject to Relocation.

Sec. 4. All persons claiming and holding saline lands under the provisions of this Act shall keep and hold actual possession of said lands by occupying the same, and whenever said lands are abandoned for a period longer than sixty days, the same shall be subject to relocation.

LOCATION OF MILL SITE.

Statutes 1897, p. 107.

Mill Site.

Section 1. The proprietor of a vein or lode claim or mine, or the owner of a quartz mill or reduction works, may locate five acres of non-mineral land as a mill site.

Notice to Contain.

Sec. 2. The locator of a mill site location shall locate his claim by posting a notice of location thereon, which must contain: First—The name of the locator or locators. Second—The name of the vein, or lode claim, or mine, of which he is the proprietor, or the name of the quartz mill or reduction works of which he is the owner. Third—The date of the location. Fourth—The number of feet or acres claimed. Fifth—A description of the claim by such reference to a natural object or permanent monument as shall identify the claim or mill site. And by marking the boundaries of his claim in the same manner as provided in this Act for the marking of the boundaries of a placer mining claim, so far as the same may be applicable thereto.

Locator Shall Record.

Sec. 3. The locator of a mill site claim or location shall, within thirty days from the date of his location, record his location with the mining district recorder and the County Recorder of the district or county in which such location is situated, by a location certificate which must be similar in all respects to the one posted on the location.

When Location is Void.

Sec. 4. Any record of a mill site location which shall not contain the name of the locator or locators, the name of the vein or lode claim or mine of which the locator is the proprietor, or the name of the quartz mill or reduction works of which the locator is the owner, the number of feet or acres claimed, and such description as shall identify the claim with reasonable certainty, shall be void.

Robinson v. Imperial M. Co., 5 Nev. 44; Hamburg M. Co. v. Stevenson, 17 Nev. 450.

ASSESSMENT WORK.

Amount of Work to Hold Possession.

Section 1. The amount of work done or improvements made during each year to hold possession of a mining claim shall be that prescribed by the laws of the United States, to-wit: One hundred dollars annually. In estimating the worth of labor required to be performed upon any mining claim, to hold the same under the laws of the United States, the value of a day's labor is hereby fixed at the sum of four dollars; provided, however, that in the sense of this statute eight hours of labor actually performed upon the mining claim shall constitute a day's labor.

Affidavit of Work Performed.

Sec. 2. Within sixty days after the performance of labor or making of improvements, required by law to be annually performed or made upon any mining claim, the person in whose behalf such labor was performed or improvements made, or someone in his behlf, shall make and have recorded by the mining district recorder or the County Recorder, in books kept for that purpose, in the mining district or county in which such mining claim is situated, an affidavit setting forth the amount of money expended, or value of labor or improvements made, or both, the character of expenditures or labor or improvements, a description of the claim or part of the claim affected by such expenditures, or labor or improvements, for what year, and the name of the owner or claimant of said claim at whose expense the same was made or performed. Such affidavit, or a copy thereof, duly certified by the County Recorder, shall be prima facie evidence of the performance of such labor or the making of such improvements, or both.

Secs. 1 and 2, Statutes 1897, p. 105.

Recorder's Fee.

Sec. 3. For taking and recording the affidavit herein re-

quired the mining recorder shall receive a fee of one dollar.

Records to Impart Notice.

Sec. 4. The instruments and Records mentioned in sections one and two shall be deemed to impart to subsequent purchasers and incumbrancers, and to all other persons whomsoever, notice of the contents thereof.

Secs. 3 and 4, Statutes 1887, p. 137.

Delinquency of Coöwners.

Notice to a Delinquent—Proviso—Penalty.

Sec. 5. Whenever a coöwner or coöwners shall give to a delinquent coöwner or coöwners the notice in writing or notice by publication provided for in Section 2324, Revised Statutes of the United States, an affidavit of the person giving such notice, stating the time, place, manner of service and by whom and upon whom such service was made, shall be attached to a true copy of such notice, and such notice and affidavit must be recorded by the mining district recorder or the County Recorder, in books kept for that purpose, in the mining district or county in which the claim is situated; within ninety days after the giving of such notice, or if such notice is given by publication in a newspaper, there shall be attached to a printed copy of such notice an affidavit of the printer or his foreman or principal clerk of such paper, stating the date of the first, last and each insertion of such notice therein, and when and where the newspaper was published during that time, and the name of such newspaper. Such affidavit and notice shall be recorded as aforesaid within one hundred and eighty days after the first publication thereof. The original of such notice and affidavits, or a duly certified copy of the record thereof, shall be evidence that the delinquent mentioned in Section 2324 has failed or refused to contribute his proportion of the expenditure required by that section and of the service or publication of said notice; provided, the writing or affidavit hereinafter provided for is not of record. If such delinquent shall, within the ninety days required by Section 2324 aforesaid, contribute to his coöwner or coöwners his proportion of such expenditures, such coöwner or coöwners shall sign and deliver to the delinquent or delinquents a writing, stating that the delinquent or delinquents by name, has within the time required by Section 2324 of the Revised Statutes of the United States contributed his share for the year....., upon the ..... mine, and further stating therein the district, county and State wherein the same is situate and the book and page where the

location notice is recorded; such writing shall be recorded in the office of the County Recorder of said county. If such coöwner or coöwners shall fail to sign and deliver such writing to the delinquent or delinquents within twenty days after such contribution, the coöwner or coöwners so failing as aforesaid shall be liable to a penalty of one hundred dollars, to be recovered by any person for the use of the delinquent or delinquents in any court of competent jurisdiction. If such coöwner or coöwners fail to deliver such writing within said twenty days, then the delinquent, with two disinterested persons having personal knowledge of such contribution, may make affidavit setting forth in what manner, the amount of, to whom and upon what mine such contribution was made. Such affidavit, or a record thereof in the office of the County Recorder of the county in which said mine is situate, shall be prima facie evidence of such contribution.

Statutes 1897, p. 106.

MINING RECORDER AND RECORDS.

Records Impart Notice and Are Received in Evidence. Duties of Mining Recorders—Duplicate Notices.

Section 1. It shall be the duty of each and every mining recorder of the several mining districts of the State to require all persons locating and recording a mining claim to make a duplicate copy of each and every mining notice, which copy the said mining recorder shall carefully compare with the original, and mark "duplicate" on its face or margin, and he shall immediately deposit with or transmit the same to the County Recorders of the respective counties in which said mining district may be located.

Fee to Be Collected.

Sec. 2. The said district mining recorders, at the time of comparing said duplicate notices with the original, shall collect from the locators of said mining claims the sum of one dollar for each and every notice compared, which sum he shall transmit, together with the said duplicate notices, to the County Recorders of the respective counties in which said mining claims shall be located.

Duplicates to Be Filed.

Sec. 3. Whenever, owing to the distance of the mining district from the county seat, it becomes inconvenient for the district mining recorder to personally deposit the duplicate copy with the County Recorder, then in that case he may forward the same by mail or express, or such other manner as

will insure safe transit and delivery to the County Recorder.

Fees for Recording.

Sec. 4. The County Recorders of the several counties shall receive for their services for recording each of said duplicate notices mentioned in section two of this Act, the sum of one dollar; provided, that in case the location is made outside of any organized mining district or in the absence of a mining recorder in any organized district, then the person or persons making location shall, within ninety days after making such location, transmit a duplicate copy of such notice to the Recorder of the county in which the location is made, and the Recorder shall record the same for a fee of one dollar.

Duplicate Notice to Have Force.

Sec. 5. The record of any original or duplicate notice of the location of a mining claim in the office of the County Recorder, as herein provided, shall be received in evidence, and have the same force and effect in the courts of the State as the original mining district records.

Secs. 4 and 5 as amended Statutes 1897, p. 77.

Penalty.

Sec. 6. Any person neglecting or refusing to comply with the provisions of this Act, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine not exceeding five hundred dollars, or by imprisonment in the county jail not exceeding six months, or by such fine and imprisonment.

County Recorders to Be Ex-Officio District Mining Recorders.

Sec. 7. In every mining district in this State, in which the seat of government of any county is situated, the County Recorder of said county shall be ex-officio district mining recorder, subject in the discharge of his duties to such rules, regulations and compensations as may be now in force or hereafter prescribed by the mining laws of the mining districts respectively to which this Act is applicable. He shall, as such ex-officio mining recorder, be responsible on his official bond for the faithful performance of the duties of his office and the correct and safe keeping of all the records thereof, and the correct and safe keeping of the copies of all the records mentioned and referred to in section two of this Act.

Records to Impart Notice.

Sec. 8. All instruments of writing relating to mining claims now copied into books of mining or other records, now in the office of the County Recorders of the several counties of this

State, shall, after the passage of this Act, be deemed to impart to subsequent purchasers and incumbrancers, and all other persons whomsoever, notice of the contents thereof; provided, that nothing herein contained shall be construed to affect any rights heretofore acquired or vested.

Copies May Be Read in Evidence.

Sec. 9. Copies of the records of all such instruments mentioned in section one of this Act, duly certified by the Recorder in whose custody such records are, may be read in evidence under the same circumstances and rules as are now or may hereafter be provided by law, for using copies of instruments relating to mining claims or real estate, duly executed or acknowledged, or proved and recorded.

Golden Fleece v. Cable Consolidated M. Co., 12 Nev. 312; Southern Cross G. & S. M. Co. v. Europia M. Co., 15 Nev. 383; Paujade v. Ryan, 21 Nev. 449; Brady v. Husby, 21 Nev. 453.

CONVEYANCE OF MINING CLAIM.

In Same Manner as Real Estate.

Section 1. Conveyance of mining claims shall hereafter require the same formalities and be subject to the same rules of construction as the transfers and conveyances of other real estate.

Hale & Norcross G. & S. M. Co. v. Storey County et al., 1 Nev. 104; Phillpotts v. Blasdell, 8 Nev. 61; Weill v. Lucerne M. Co., 11 Nev. 200; Gruber v. Baker, 20 Nev. 453.

Former Conveyances Construed.

Sec. 2. All conveyances of mining claims heretofore made by bills of sale or other instruments in writing, with or without seals, recorded or unrecorded, shall be construed in accordance with the lawful local rules, regulations and customs of the miners in the several mining districts of this territory; and if heretofore regarded valid and binding in such districts, shall have the same force and effect between the parties thereto, as prima facie evidence of sale, as if such conveyances had been made by deed under seal.

How Proved.

Sec. 3. The location and transfers of mining claims heretofore made, shall be established and proved in contestation before courts, by the local rules, regulations or customs of the miners in the several mining districts of the territory in which such location and transfers were made.

Van Valkenburg et al. v. Huff et al., 1 Nev. 142; Mallett

v. Uncle Sam G. & S. M. Co., 1 Nev. 188; Oreamuno v. Uncle Sam G. & S. M. Co., 1 Nev. 217; Smith et al. v. North American Mining Co., 1 Nev. 423; Chase v. Savage S. M. Co., 2 Nev. 9; Bullion M. Co. v. Croesus G. & S. M. Co., 2 Nev. 168; Gottschall et al. v. Melsing et al., 2 Nev. 185.

Lands Defined.

Sec. 4. The term "lands," as used in this Act, shall be construed as coextensive in meaning with lands, tenements, and hereditaments, and shall include in its meaning all possessory right to the soil for mining and other purposes, and the term "estate and interest in lands," shall be construed and embrace every estate and interest, present and future, vested and contingent, in lands as above defined.

Mortgage to Be Recorded.

Sec. 5. A mortgage for a good and valuable consideration upon possessory claims to public lands, all buildings and improvements upon such lands, all quartz and mining claims, and all such personal property as shall be fixed in its structure to the soil, acknowledged in manner and form as mortgages upon real estate are required by law to be acknowledged and recorded in the office of the Recorder in the county in which the property is situated, shall have the same effect against third persons as mortgages upon real estate.

Capon v. Stout, 11 Nev. 304.

Mining Rules.

Sec. 6. This Act shall not be so construed as to interfere or conflict with the lawful mining rules, regulations, or customs in regard to the locating, holding, or forfeiture of claims, but, in all cases of mortgages of mining interests under this Act, the mortgagee shall have the right to perform the same acts that the mortgagor might have performed for the purpose of preventing a forfeiture of the same under the said rules, regulations, or customs of mines, and shall be allowed such compensation therefor as shall be deemed just and equitable by the court ordering the sale upon a foreclosure; provided, that such compensation shall, in no case, exceed the amount realized from the claim by a foreclosure and sale.

Deed of Minor Held Valid—Proviso—Suits Pending.

Sec. 7. In all cases in this State since the first day of July, A. D. eighteen hundred and sixty-seven, where minors over the age of eighteen years have sold interests acquired by them in mining claims or locations by virtue of their having located

such claims, or having been located therein by others and have executed deeds purporting to convey such interests, such deeds, if otherwise sufficient in law, shall be held valid and sufficient to convey such interest fully and completely, notwithstanding the minority of the grantor, and without any power or right of subsequent revocation; provided, that this section shall not apply to cases where any fraud was practiced upon such minor, or any undue or improper advantage was taken by his purchaser or any other person to induce such minor to execute such deed; and, provided further, that this section shall not apply to or affect any suits which may now be pending in any courts of this State, in which the legality or validity of such deeds may be involved.

Minors Empowered to Sell or Convey.

Sec. 8. All minors in this State, over the age of eighteen years, are hereby authorized and empowered to sell and convey by deed such interests as they may have acquired, or may hereafter acquire, in mining claims or mining locations within this State, by virtue of locating the same, or being located therein, and such deed shall, if otherwise sufficient in law, be held valid and sufficient to convey such interest fully and completely, and without the right of subsequent revocation, notwithstanding the minority of the grantor, subject, however, to the same provisions and limitations contained in the first section of this act.

ACTIONS FOR TITLE AND POSSESSION.

Application for Patent—Jurisdiction of Court.

Right of Possession.

Section 1. In all actions brought to determine the right of possession of a mining claim, or metalliferous vein or lode, where an application has been made to the proper officers of the Government of the United States by either of the parties to such action for a patent for said mining claim, vein, or lode, it shall only be necessary to confer jurisdiction on the court to try said action, and render a proper judgment therein, that it appear that an application for a patent for such mining claim, vein, or lode has been made, and that the parties to said action are claiming such mining claim, vein, or lode, or some part thereof, or the right of possession thereof.

Golden Fleece v. Cable Con. Mining Co., 12 Nev. 312; Rose v. Richmond Mining Co., 17 Nev. 25; Gottschall v. Melsing, 2 Nev. 185; Chase v. Savage S. M. Co., 2 Nev. 9; Bullion M. Co. v. Croesus G. & M. Co., 2 Nev. 168; Stonecifer v. Yellow Jacket S. M. Co., 3 Nev. 39; Schissler v.

Chesshire, 7 Nev. 434; Welland v. Huber, 8 Nev. 203; Rogers v. Cooney, 7 Nev. 213; Hamburg M. Co. v. Stevenson, 17 Nev. 450; Patchen v. Kelley, 19 Nev. 404; Deno v. Griffin, 20 Nev. 249; Jones v. Prospect Tunnel Co., 21 Nev. 339; South End Mining Co. v. Tinney, 22 Nev. 19; Abbott v. Primeaux, 16 Nev. 361; Steel v. Gold Lead G. & S. M. Co., 18 Nev. 80.

Trial, When Postponed.

Sec. 2. In actions involving the title to mining claims and quartz ledges, if it be made to appear to the satisfaction of the court that in order that justice may be done, and the action fairly tried on its real merits, it is necessary that further developments should be made, and that the party applying has been guilty of no laches and is acting in good faith, the court shall grant the postponement of the trial of the action, giving the party a reasonable time in which to prepare for trial. And in granting such postponement, the court may, in its discretion, annex as a condition thereto, an order that the party obtaining such postponement shall not, pending the trial of the action, remove from the premises in controversy any valuable quartz, rock, earth, or ores, and for any violation of an order so made, the court or the judge thereof may punish for contempt, as in the cases of violation of an order of injunction, and may also vacate the order of postponement.

Choate & Brown v. Bullion Mining Co., 1 Nev. 73; Silver Mining Co. v. Fall, 6 Nev. 116.

STATUTE OF LIMITATIONS.

Recovery of Mining Claims.

Section 4. No action for the recovery of mining claims, or for the recovery of the possession thereof, shall be maintained, unless it shall appear that the plaintiff, or those through or from whom he claims, were seized or possessed of such mining claim, or were the owners thereof, according to the laws and customs of the district embracing the same, within two years before the commencement of such action. Occupation and adverse possession of a mining claim shall consist in holding and working the same, in the usual and customary mode of holding and working similar claims in the vicinity thereof. All the provisions of this act, which apply to other real estate, so far as applicable, shall be deemed to include and apply to mining claims; provided, that in such application "two years" shall be held to be the period intended whenever the term "five years" is used; and, provided further, that when the term "legal title"

or "title" are used, they shall be held to include title acquired by location or occupation, according to the usages, laws, and customs of the district embracing the claim.

Bullion M. Co. v. Croesus G. & S. M. Co., 2 Nev. 169; Gottschall v. Melsing, 2 Nev. 185; The 420 Mining Co. v. Bullion Mining Co., 9 Nev. 240; Abernathie v. Con. Virginia Mining Company, 16 Nev. 261.

LIEN—EXEMPTION—INJUNCTION.

Preferred Lien.

Section 1. Where ore is delivered to a custom mill or reduction works, and either sold to said mill or reduction works, or worked at a percentage, the party or parties so furnishing ore to mill or reduction works shall have a preferred lien upon the bullion product, and upon the ore not reduced, as against attachment and other creditors.

Lien on Mine for Wages and Material.

Sec. 2. All miners, laborers and others who work or labor to the amount of five (5) dollars or more in or upon any mine, or upon any shaft, tunnel, adit, or other excavation, designed or used for the purpose of prospecting, draining or working any such mine; and all persons who shall furnish any timber or other material of the value of five (5) dollars or more, to be used in or about any such mine, whether done or furnished at the instance of the owner of such mine or his agent, shall have, and may each respectively claim and hold, a lien upon such mine for the amount and value of the work or labor so performed, or material furnished; and every contractor, sub-contractor, architect, builder, or other persons, having charge or control or any mining claim, or any part thereof, or of the construction, alteration or repair, either in whole or in part, of any building or other improvement, as aforesaid, shall be held to be the agent of the owner, for the purposes of this chapter.

Shyrme v. Occidental M. Co., 8 Nev. 219; Capon v. Stout, 11 Nev. 304; Rosena v. Trowbridge, 20 Nev. 105; Lonkey v. Keyes S. M. Co., 21 Nev. 312.

Miner's Property Exempt from Execution.

Sec. 3. The cabin or dwelling of a miner, not exceeding in value the sum of five hundred dollars; also his sluices, pipes, hose, windlass, whim, derrick, cars, pumps, tools, implements, and appliances necessary for carrying on any kind of mining operations, not exceeding in value the aggregate sum of five hundred dollars, and two horses, mules, or oxen, with their harness, and food for such horses, oxen or mules for one month,

when necessary to be used for any whim, windlass, derrick, car, pump, or hoisting apparatus, are exempt from execution.

Injunction on Working of Mine.

Sec. 4. If, upon the hearing of an application for an injunction, or for the dissolution of an injunction, it does not satisfactorily appear that there is a sufficient cause for an injunction, or if it appear that the extent of the injunction is too great, it shall be refused, dissolved, or modified, as the case may be, and upon all such applications in actions respecting mines, the court or judge hearing the same may, instead of granting or continuing the injunction, make an order requiring the party against whom the application is made to give a bond in an amount fixed by such court or judge, with sufficient sureties, to be approved by such court or judge, conditioned for the payment to the plaintiff of all damages which he may sustain by reason of the use or occupation of the mine, or other acts complained of, by the party giving the bond, his or its agents, servants, employees, grantees, or other persons by his or its consent pending the litigation, if the plaintiff finally recover; or that upon failure to give such bond within the time prescribed in the order, the injunction shall be granted, or continued, as the case may be; or the court or judge may appoint a receiver to take charge of the mine, or the proceeds thereof, pending the litigation.

Sherman v. Clark, 4 Nev. 138.

ASSAYING.

Description of Bars of Bullion.

Section 1. Every person or firm now engaged in, or who may hereafter engage in, the business of assaying within the State of Nevada, shall be required to place a written description pasted on or stamped upon every bar of bullion or amalgam melted, retotrd, assayed, or refined by such person or firm.

Neglect or Refusal.

Sec. 2. Every person or firm within the State of Nevada, engaged in or carrying on the business mentioned in the first section of this act, who shall neglect or refuse to comply with its provisions, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than one thousand dollars and not more than five thousand dollars, and shall be imprisoned in the county jail not less than one month nor more than six months, for each and every such refusal or neglect. (See page 99 of this book.)

Kennedy v. Schwartz, 13 Nev. 229.

FALSE STATEMENT REGARDING ORE.

Changing Value of Ores a Misdemeanor—Penalty.

Section 1. Any person, corporation, or association, or the agent of any person, corporation, or association, engaged in the milling, smelting, sampling, concentrating, reducing, shipping or purchasing of ores in this State, who shall in any manner knowingly alter or change the true value of any ores delivered to him or them, so as to deprive the seller of the correct value of the same, or who shall substitute other ores for those delivered to him or them, or who shall issue any bill of sale or certificate of purchase, that does not exactly and truthfully state the actual weight, assay value and total amount paid for any lot or lots of ore purchased, or who, by any secret understanding, or agreement with another, shall issue a bill of sale or certificate of purchase that does not correctly and truthfully set forth the weight, assay value, and total amount paid for any lot or lots of ore purchased by him or them, shall be guilty of a misdemeanor and, on conviction thereof, shall be fined in a sum not exceeding one thousand dollars, nor less than one hundred dollars, or imprisonment in the county jail not more than one year, or both, at the discretion of the court.

PARTITION OF MINING CLAIM.

Action for Partition.

Section 1. When the action is for partition of a mining claim among the tenants in common, joint tenants, coparceners or partners thereof, the court, upon good cause shown by any party or parties in interest, may, instead of ordering partition to be made in manner as hereinbefore provided, or a sale of the premises for cash, direct the referees to divide the claim in the manner hereinafter specified.

Order of Court.

Sec. 2. The court shall, in its order, or by a subsequent order made upon motion, fix the time for division of the claim by the referees, which shall not be less than twenty nor more than forty days from the day of making the order, except by consent of all the parties in interest who have appeared in the action.

To Go on Claim.

Sec. 3. On the day designated in the order, the referees shall go upon the claim to be divided, and proceed to make division of the same as hereinafter provided, and shall continue from day to day until the whole business is completed.

Parties May Unite.

Sec. 4. Two or more of the tenants in common, joint tenants,

copartners or parceners, may unite together for the purposes of such division, of which they shall give the referees written notice before they commence the business of division; and all who do not unite as aforesaid, or give notice of separate action, shall, for the purposes of division, be deemed and held to have united. The referees in their action shall recognize those named in the order of the court, or their agents and attorneys in fact, duly appointed by instrument in writing under seal, and acknowledged as in cases of conveyances of real estate, the guardian of an infant, and the guardian entitled to the custody and management of the estate of an insane person or other person adjudged incapable of conducting his own affairs, and as to the interest of each, shall be controlled entirely by the order of the court.

To Select Place of Location.

Sec. 5. At the time and place of division, one of the referees to be selected by them shall, in the manner of public auction, offer to the party or parties who will take the least part or portion of said mining claim in proportion to the interest he or they may have therein, the privilege of first selecting the place at which his portion shall be located, and upon closing the bids the referees shall proceed to measure and mark off, by distinct metes and bounds, to the lowest bidder, his or their portion of said mining claim, at the place designated by them or him, according to the terms of his or their bid.

Duties of Referees.

Sec. 6. When the referees have marked off and set apart the interest of the lowest bidder, as provided in the last section, they shall offer to the remaining parties the privilege of selection as in said section mentioned and described, and shall, upon closing the bids, proceed in the same manner to locate and mark off the portion of the lowest bidder, and shall thereafter continue in the same manner to receive bids and mark off the interest of the bidder or bidders until there shall remain but one party in interest, or parties united, forming one interest, as provided in section four.

Parties Remaining.

Sec. 7. The party or parties remaining as provided in the last section, shall become the owner or owners, as the case may be, of the entire claim not marked off and set apart to other parties as hereinbefore provided, in proportion to their respective interests in the claim.

To Be Returned.

Sec. 8. The referees shall return with their report in this

act required to be made by them, the evidences of authority presented to them by which they claim the right to bid, or otherwise act, during the proceedings hereinbefore mentioned.

DAMAGE TO OR TRESPASS ON MINING CLAIM.

Manner of Working Mine—Damages, How Assessed.

Section 1. Any person or persons, company or corporation, being the owner or owners of, or in possession under any lease or contract for the working of any mine or mines within the State of Nevada, shall have the right to institute and maintain an action, as provided by law, for the recovery of any damages that may accrue by reason of the manner in which any mine or mines have been or are being worked and managed by any person or persons, company or corporation, who may be the owner or owners, or in possession of and working such mine or mines under a lease or contract, and to prevent the continuance of working and managing such mine or mines in such manner as to hinder, injure, or by reason of tunnels, shafts, drifts or excavations, the mode of using, or the character and size of the timbers used, or in any wise endangering the safety of any mine or mines adjacent or adjoining thereto. And any such owner of, or in the possession of any mine or mining claim, who shall enter upon or into, in any manner, any mine or mining claim, the property of another, and mine, extract, excavate or carry away any valuable mineral therefrom, shall be liable to the owner or owners of any such mine or mines trespassed upon in twice the amount of the gross value of all such mineral mined, extracted, excavated, or carried away, to be ascertained by an average assay of the excatvated material or the ledge from which it is taken. As amended Stats. 1891, p. 37.

Lien of Judgment and Continuation Thereof.

Sec. 2. Any judgment obtained for damages under the provisions of this act shall become a lien upon all the property of the judgment debtor or debtors, not exempt from execution, in the Territory of Nevada, owned by him, her, or them, or which may afterwards be acquired, as is now provided for by law, which lien shall continue two years, unless the judgment be sooner satisfied.

Survey May be Applied For—What Affidavit Shall State—Notice of Application, and How Served—Order of Court—Costs.

Sec. 3. Any person or persons named in the first two sections of this act, shall have the right to apply for and obtain from any District Court, or the judge thereof, within this Ter-

ritory, an order of survey in the following manner: An application shall be made by filing the affidavit of the person making the application, which affidavit shall state, as near as can be described, the location of the mine or mines of the parties complained of, and as far as known, the names of such parties; also, the location of the mine or mines of the parties making such application, and that he has reason to believe, and does believe, that the said parties complained of, their agents or employees, are or have been trespassing upon the mine or mines of the party complaining, or are working their mine in such manner as to damage or endanger the property of the affiant. Upon the filing of the affidavit as aforesaid, the court or judge shall cause a notice to be given to the party complained of, or the agent thereof, which notice shall state the time, place, and before whom the application will be heard, and shall cite the party to appear in not less than five nor more than ten days from the date thereof, to show cause why an order of survey should not be granted; and upon god cause shown, the court or judge shall grant such order, directed to some competent surveyor or scurveyors, or to some competent mechanics, or miners, or both, as the case may be, who shall proceed to make the necessary examination as directed by the court, and report the result and conclusions to the court which report shall be filed with the clerk of said court. The costs of the order and survey shall be paid by the persons making the application, unless such parties shall subsequently maintain an action and recover damages, as provided for in the first two sections of this act, by reason of a trespass or damage done or threatened prior to such survey or examination having been made, and in that case, such costs shall be taxed against the defendant as other costs in the suit. The parties obtaining such survey shall be liable for any unnecessary injury done to the property in the making of such survey.

Rogers v. Cooney, 7 Nev. 213; Waters v. Stevenson, 13 Nev. 157; Patchen v. Kelley, 19 Nev. 404.

MAJORITY OWNERS OF MINE MAY CHANGE INTEREST OF MINORITY.

(Act March 7, 1865, p. 228.)

Mining Companies May Bring Suit.

Section 1. When three or more persons, owning or claiming as joint tenants, tenants in common or corparceners, a majority of the number of feet, shares, or interests in any mining claim in this state, shall have formed, or shall hereafter form themselves into a corporation or organized association, for the purpose of working and developing such mining claim, and shall

actually proceed to work and develop the same, such corporation or association may, without demand, except by commencement of action, institute in any court of competent jurisdiction, suit in its corporate or associate name, as upon an implied contract for the payment of money, against any person not a stockholder in or member of such corporation or association, owning or claiming to own in said mining claim as joint tenant, tenant in common or coparcener, for his or her proportion of the money actually expended or indebtedness assumed by such corporation or association, in the actual and necessary working and development of said mining claim.

Money Expended or Indebtedness Assumed.

Sec. 2. The proportion of money expended or indebtedness assumed by such corporation or association, and for the payment of which such joint tenant, tenant in common or coparcener, is made liable under the provisions of this act, shall be deemed such an amount of money or indebtedness as bears the same proportion to the whole amount of money expended or indebtedness assumed, as the interest in the mining claim owned or claimed by such joint tenant, tenant in common or coparcener, bears to the whole of the mining claim.

Who May Join in Suit—Issue of Facts—Judgment to Be Separate.

Sec. 3. Any number of such joint tenants, tenants in common or coparceners, may be joined as parties defendant in any suit instituted under the provisions of this act; but each defendant shall be entitled to plead separately; and when the cause shall be tried by jury, as many of the separate issues of fact as may be agreed upon by the parties may be determined by the same jury. Judgment shall be rendered for or against each defendant separately, and the costs of suit may be apportioned among the several parties defendant, against whom judgment may be rendered, in such manner as to the court may appear just and equitable; provided, that in all cases the defendant, prior to the institution of suit under the provisions of this act, shall be entitled to three weeks' notice of the intention of such corporation or association to institute such suit, which notice may be either personally or by publication in some newspaper published in the county within which such mining claim is located; and if none be published in said county, then in the nearest adjoining county.

What Summons Shall Specify.

Sec. 4. The summons shall specify: First, the amount of money actually expended, or indebtedness assumed, but such

corporation or association, in the actual and necessary working and development of said mining claim; and, second, the amount due from each joint tenant, tenant in common, or coparcener, as his or her proportion of such money or indebtedness.

Where Suit to Be Brought—Service of Summons.

Sec. 5. All suits instituted under the provisions of this act shall be brought in the county within which the mining claim may be located; and where the defendant is a non-resident of the county within which the suit is brought, but a resident of the State, service of summons may be had personally, as in other cases, or by publication in the same manner as provided by law for service of summons by publication where the defendant is a non-resident of the State and a resident of the State of California; and all of the provisions of law regulating proceedings in other civil cases chall, so far as the same are applicable, apply to suits instituted under this act.

Lien.

Sec. 6. The amount of money expended or indebtedness assumed, by such corporation or association, as the proportion due from such joint tenant, tenant in common, or coparcener, for the actual and necessary working and development of said mining claim, shall be a lien in favor of such corporation or association upon the interest of such joint tenant, tenant in common, or coparcener, in such mining claim, from the time such money was expended, or indebtedness assumed, by such corporation or association; which lien shall bind such interest from the time of such payment or assumption as against any subsequent purchaser, mortgagee, or other person acquiring a lien upon, or title to, or interest in, the same. Suit may be instituted against the person owning or claiming such interest at the time of the commencement of the action for the recovery of the whole amount due upon such interest; and all judgments rendered in any action instituted under the provisions of this act, and any execution issued thereon, shall bind and run against such interest, and no other property of the defendant shall be subject to execution on said judgment.

Sales to Be Absolute.

Sec. 7. All sales of any interest in a mining claim under an execution issued on a judgment obtained in any suit instituted under the provisions of this act shall be absolute, and the purchaser shall be entitled to the immediate possession of the interest purchased by him at such sale.

Mallett v. Uncle Sam G. & S. M. Co., 1 Nev. 188.

LIABILITY OF OWNER OF SHAFT.

Safeguards to Be Erected.

Section 1. Any person or persons, company or corporation, who shall hereafter dig, sink or excavate, or cause the same to be done, or being the owner or owners, or in the possession, under any lease or contract of any shaft, excavation, or hole, whether used for mining or otherwise, or whether dug, sunk or excavated for the purpose of mining, to obtain water, or for any other purpose, within this State, shall, during the time they may be employed in digging, sinking or excavating, or after they may have ceased work upon or abandoned the same, erect, or cause to be erected, good and substantial fences, or other safeguards, and keep the same in god repair, around such works or shafts, sufficient to securely guard against danger to persons and animals from falling into such shafts or excavations.

Notices of Violation of Preceding Section May Be Filed.

Sec. 2. Any person being a resident of the county, and knowing, or having reason to believe, that the provisions of section one of this act are being or have been violated within such county, may file a notice with any justice of the peace or police judge therein, which notice shall be in writing, and shall state: First—The location, as near as may be, of the hole, excavation or shaft. Second—That the same is dangerous to persons or animals, and has been left, or is being worked, contrary to the provisions of this act. Third—The name of the person or persons, company or corporation, who is or are the owners of the same, if known, or if unknown, the persons who were known to be employed therein. Fourth—If abandoned, and no claimant; and, Fifth—The estimated cost of fencing or otherwise securing the same against any avoidable accident.

Judge to Issue Order.

Sec. 3. Upon the filing of the notice, as provided for in the preceding section, the justice of the peace, or judge of the police court, shall issue an order, directed to the sheriff of the county, or to any constable or city marshal therein, directing such officer to serve a notice, in manner and form as is prescribed by law for service of summons upon any person or persons, or the authorized agent or agents, of any company or corporation named in the notice on file, as provided in section two of this act.

What Notice Shall Require.

Sec. 4. The notice thus served shall require the said persons to appear before the justice or judge issuing the same, at a time

to be stated therein, not more than ten nor less than three days from the service of said notice, and show, to the satisfaction of the court, that the provisions of this act have been complied with, or if he or they fail to appear, judgment will be entered against him or them for double the amount stated in the notice on file; and all proceedings had therein shall be as prescribed by law in civil cases; and such persons, in addition to any judgment that may be rendered against them, shall be liable and subject to a fine, not exceeding the sum of one hundred dollars for each and every violation of the provisions of this act, which judgments and fines shall be adjudged and collected as provided for by law.

Suits to Be in the Name of the State.

Sec. 5. Suits commenced under the provisions of this act shall be in the name of the State of Nevada, and all judgments and fines collected shall be paid into the county treasury for county purposes.

County Commissioners Shall Fence Abandoned Excavations.

Sec. 6. If the notice filed with the justice of the peace or police judge, as aforesaid, shall state that the excavation, shaft or hole has been abandoned, and no person claims the ownership thereof, said justice of the peace, or judge, shall notify the board of county commissioners of the county, or either of them, of the location of the same, and they shall, as soon as possible thereafter, cause the same to be so fenced or otherwise guarded as to prevent accidents to persons or animals; and all expenses thus incurred shall be paid, first, out of the fines and judgments collected in accordance with the provisions of this act, as other county expenses; provided, that nothing herein contained shall be so construed as to compel the county commissioners to fill up, fence or otherwise guard any shaft, excavation or hole unless in their discretion the same may be considered dangerous to persons or animals.

CAGE TO BE USED IN SHAFT.

Cages to Be Provided by Mining Companies.

Section 1. It shall be unlawful for any person or persons, company or companies, corporation or corporations, after the first day of July, A. D. Nineteen hundred and five, to sink or work through any vertical shaft at a greater depth than three hundred and fifty feet, unless the said shaft shall be provided with an iron bonneted safety cage, to be used in the lowering and hoisting of the employees of such person or persons, company or companies, corporation or corporations. The safety apparatus shall be securely fastened to the cage, and shall be

of sufficient strength to hold the cage loaded at any depth to which the shaft may be sunk.

In any shaft less than three hundred and fifty feet deep, where no safety cage is used and where crosshead or crossheads are used, platforms for employees to ride upon in lowering and hoisting said employees shall be placed above said crosshead or crossheads; the provisions of this Act requiring the placing of said platforms on said crosshead or crossheads not later than the first day of July, A. D. Nineteen hundred and five.

Failure to Comply—Penalties.

Sec. 2. Any person or persons, company or companies, corporation or corporations, or the managing agent of any person or persons, company or companies, corporation or corporations, violating the provisions of this Act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in the sum of five hundred dollars, or imprisoned in the county jail for the term of six months, or by both such fine and imprisonment.

Damages to Be Recovered.

Sec. 3. Nothing contained in this act shall be so construed as to prevent recovery being had in a suit for damages for injuries sustained by the party so injured, or his heir or administrator or administratrix, or any one else now competent to sue in an action of such character.

Patnode v. Harter, 20 Nev. 303.

CORPORATIONS FOR MINING AND MILLING.

(Act of March 3, 1866, p. 204.)

For latest Corporation Laws of Nevada, see Session Laws, 1903, p. 121; 1903, p. 325; 1907, pp. 109, 190, 227, 228.

Power to Purchase and Hold Mining Property.

Section 1. All corporations for the purpose of mining, formed, or which may be hereafter formed, under the laws of the State of Nevada, or which were formed under the laws of the Territory of Nevada, shall have power to purchase and hold such mining property as they may deem meet.

How Exercised.

Sec. 2. The power to make such purchases by any corporation shall be exercised only by a majority, in interest, of all the stockholders in any such corporation, or by such person or persons as may, by such majority, be duly appointed to act in their stead.

Smith v. North Am. M. Co., 1 Nev. 424; Robinson v. Imperial S. M. Co., 5 Nev. 44; Corey v. Curtis, 9 Nev. 325; Sutro Tunnel Co. v. Seg. Belcher M. Co., 19 Nev. 121.

Capital Stock.

Sec. 3. In corporations already formed, or which may hereafter be formed under this act, or otherwise, for mining purposes, where the amount of the capital stock of such corporation consists of the aggregate valuation of the whole number of feet, shares, or interest in any mining claim in this State. for the working and development of which such corporation shall be, or has been formed, no actual subscription to the capital stock of such corporation shall be necessary; but each owner in said mining claim shall be deemed to have subscribed such an amount to the capital stock of such corporation as under the by-laws will represent the value of so much of his or her interest in said mining claim, the legal title to which he or she may, by deed, deed of trust, or other instrument, vest, or have vested in such corporation, for mining purposes; such subscription to be deemed to have been made and to have been fully paid on the execution and delivery to such corporation and its acceptance by such corporation of such deed, deed of trust, or other instrument, nor shall the validity of any assessment levied, or which may hereafter be levied, by the board of directors or trustees of such corporation, provided such corporation has the right and power to levy assessments, be affected by reason of the fact that the full amount of the capital stock of such corporation, as mentioned in its certificate of incorporation, shall not have been subscribed, as provided in this section; provided that the greater portion of said amount of capital stock shall have been subscribed; and, provided further, that this section shall not be so construed as to prohibit the stockholders of any corporation formed, or which may be formed for mining purposes, as provided in this section, from regulating the mode of making subscriptions to its capital stock and calling in the same by by-laws or expressed contract. Provided, further, that no corporation hereafter formed shall ever have power to assess paid-up stock unless in its original articles or certificate of incorporation such power is reserved, and no amendment of such original in this respect, or to give such power shall ever be made.

O'Meara v. North American M. Co., 2 Nev. 113.

To Be Governed by District Mining Laws—Proviso.

Sec. 4. All corporations already formed, or which may hereafter be formed under this act for mining purposes, shall be governed by the mining laws of the district where the mine is located.

Rights of Corporations.

Sec. 5. Corporations already formed or hereafter incor-

porated under the provisions of this act for mining, milling or ore reduction purposes, may subscribe to and become stockholders in any corporation, company or association now formed, or which may hereafter be formed, for the purpose of constructing any tunnel, shaft or other work, which may be calculated to aid or facilitate the exploration, development or working of any mine or mining ground in this State; and any corporation so becoming a stockholder therein shall, in proportion to its interest, be subject to all the liabilities and entitled to all the rights and privileges of an individual stockholder.

Trustees to Convey Property on Dissolution.

Sec. 6. When any mining incorporation, holding or working any mine or mines in this State, shall disincorporate under the provisions of this act, the board of trustees of said corporation shall convey by deed to the stockholders of said company all mines and other property of said corporation, in proportion to the amount of stock each stockholders shall hold in the mine or mines and other property owned by said corporation, which deed shall be recorded in the office of the county recorder of the county in which the mine is located.

Mining Companies May Sue Delinquents.

Sec. 7 Corporations, and associations, and companies, formed for mining purposes, are hereby authorized, in their corporate or associated name, to institute suits against any one or more of their members who may be delinquent in the payment of their assessments.

Welland v. Huber, 8 Nev. 203.

Intention of Suit to Be Published.

Sec. 8. Before such suit is brought before any court having jurisdiction of the amount, such delinquent, and the amount he may owe, and the intention to institute suit thereon, shall be advertised in a newspaper published in the county where the mining claim is located, and if no newspaper be published in the county, then in a newspaper published in the nearest adjoining county, for at least once a week for one month before such suit is instituted.

Majority of Members to Authorize Suit.

Sec. 9. It shall be proved on the trial of such suit that the trustees or managing agents of said corporation, or association, or company, were fully authorized to institute such suit by a majority of the members of said corporation, or association, or company.

Competent Witnesses.

Sec. 10. The members of such corporation, association, or company shall be competent witnesses to establish the assessment and indebtedness of the delinquent member.

Application of Act.

Sec. 11. This act shall apply only to corporations, associations and companies who are actually engaged in mining and for delinquency in assessments for mining.

Chill v. Hirshman, 6 Nev. 57.

CORPORATIONS MAY CONSOLIDATE.

Two or More Mining Companies May Consolidate—Consent of Stockholders Required—Notice by Advertisement—Certificate, When Filed—How Signed—Boards of Trustees or Directors—Certificate, What to Contain.

Section 1. It shall be lawful for two or more corporations formed, or that may be hereafter formed, under the laws of this State for mining purposes, which own or possess mining claims or lands adjoining each other or lying in the same vicinity, to consolidate their capital stock, debts, property, assets and franchises in such a manner and upon such terms as may be agreed upon by the respective boards of directors or trustees of such companies so desiring to consolidate their interests; but no such consolidation shall take place without the consent of stockholders representing two-thirds of the capital stock of each company, and no such consolidation shall in any way relieve such companies or the stockholders thereof from any and all just debts and liabilities; and, in case of such consolidation, due notice of the same shall be given by advertisement for at least twenty days in one newspaper in the county and state where the said mining property is situated if there be one published therein and also in one newspaper published in the county where the principal place of business of any of said companies shall be; and when the said consolidation is completed a certificate thereof, containing the manner and terms of said consolidation shall be filed in the office of the county clerk of the county in which the original certificate of incorporation of any of said companies shall be filed, and a copy thereof shall be filed in the office of the secretary of state. Such certificate shall be signed by a majority of each board of directors of the original companies, and it shall be their duty to call, within thirty days after the filing of such certificate, and after at least ten days public notice in some newspaper in the county where its property is situated, a meeting of the stockholders of all of said

companies so consolidated, to elect a board of trustees or directors for the consolidated company for the year next ensuing. Said certificate shall also contain the name of the company, the object for which it, the same, has been formed, which shall be the same as the original corporations, the amount of its capital stock, the time of its existence (not to exceed fifty years), the number of shares of which the capital stock shall consist, the number of trustees or directors who shall manage the affairs of the company for the first year, and the name of the city or town in which the principal place of business of the company is to be located.

Written Consent of Stockholders—Proxy.

Sec. 2. When two or more companies may desire to consolidate in accordance with the provisions of section one of this act, and shall have given the required notice, as in said section provided, any stockholder consenting thereto shall be required to give his consent in writing, stating the number of shares held by him, and that he is in favor of such consolidation; provided, that any and all stock standing in the name of trustees may be voted by such trustees the same as by the owners thereof, and the consent of such trustees shall be equivalent to the consent of such owners; and provided further, that any person holding the general proxy of any stockholders shall be entitled to give or refuse his consent to such consolidation, the same as the owner of such stock for which said proxy is held.

Foreign Corporations May Consolidate With Home Corporations—Agent to Be Appointed, When—Penalty.

Sec. 3. The provisions of this act shall be construed to permit and allow foreign corporations, owning mining property in this State, to consolidate with corporations organized under the laws of this State; provided, that in all such cases the principal place of business of such consolidation, when effected, shall be located in the State of Nevada, or in the State where such foreign corporation desiring such consolidation resides, as may be determined by a vote of two-thirds of the stockholders of such consolidation after the same shall be completed, and in case it shall be determined upon such vote being had, to remove the principal place of business of such consolidation out of this State, the certificate provided for in section one shall be amended so as to show the county and State where the principal place of business is located; and provided further that in case the principal place of business of such corporation shall be removed out of this State there shall be an agent of such

corporation appointed in this State in the county where its property is situated, upon whom all legal process may be served, and the failure of such corporation to appoint such agent shall subject it to a fine of fifty dollars per day, to be recovered in the name of the State of Nevada, as in other cases of fines and penalties.

Paxton v. Bacon M. & M. Co., 2 Nev. 257.

EMINENT DOMAIN FOR MINING PURPOSES.

Right of Eminent Domain.

Section 1. The production and reduction of ores are of vital necessity to the people of this State; are pursuits in which all are interested, and from which all derive a benefit; so the mining, milling, smelting, or other reduction of ores are hereby declared to be for the public use, and the right of eminent domain may be exercised therefor.

Lands for Such Purposes, How Acquired.

Sec. 2. Any person, company, or corporation engaged in mining, milling, smelting, or other reduction of ores, may acquire any real estate, or any right, title, interest, estate, or claim therein or thereto necessary for the purposes of any such business, by means of the special proceedings prescribed in this act. The said special proceedings shall be substantially as follows: There shall be filed in the clerk's office of the District court in the county where the real estate is situated, a petition verified according to law, stating therein the name of the person, company, or corporation presenting the petition, that they are engaged in the business of mining, milling, smelting, or other reduction of ores as aforesaid, the description by the metes and bounds, or by some accurate designation of the tract or tracts of land desired to be appropriated for the purposes of such business, and that a necessity exists therefor, setting forth the names of those in possession of said lands, and of those claiming any right, title or interest therein, so far as the same can be ascertained by reasonable diligence.

Defendants Upon Petition, How Considered.

Sec. 3. The persons in occupation of said tract or tracts of land, and those having any right, title, or interest therein, whether named in the petition or not, shall be defendants thereto, and may appear and show cause against the same, and may appear and be heard before the commissioners herein provided for, and in proceedings subsequent thereto, in the same manner as if they had appeared and answered said petition.

Hearing Upon Petition.

Sec. 4. The said court, or the judge thereof, either in term

or vacation, shall, by order, appoint the time for the hearing said petition, and such hearing may be had, and all orders in said proceedings may be made by the said court or the judge thereof, either in term time or vacation.

Notice of Pendency of Petition.

Sec. 5. The petitioner shall cause all the occupants and owners of said tract or tracts of land, so far as the same can be ascertained by reasonable diligence, who reside in said county, to be personally notified of the pendency of the said petition at least ten days before the hearing thereof; and if any of said occupants or owners are unknown, or do not reside in said county, and have not been personally notified of the pendency of said petition, such petitioner shall cause a notice, stating the filing of said petition, the object thereof, the tracts of land sought to be appropriated, and the time and place of the hearing of said petition to be published for four successive weeks previous to the time of hearing said petition in a newspaper published in said county, or if none is published in said county, then in a newspaper published nearest to said county.

Hearing Upon Petition—Commissioners, How Selected.

Sec. 6. The defendants to said petition may appear and show cause against said petition on or before the time for the hearing thereof, or such other time as the hearing may be continued to; and upon satisfactory proof being made that the defendants have been duly notified of the pendency of said petition, as herein prescribed, and upon the hearing of the allegations and proofs of the said parties, if the said court or judge shall be satified that the said lands, or any part thereof, are necessary or proper for any of the purposes mentioned in said petition, then such court or judge shall appoint three competent and disinterested persons as commissioners, one of whom shall be selected from among the persons, if any, named for that purpose by said petitioner, and one shall be selected from among the persons, if any, named on the part of any of the defendants, to ascertain and assess the compensation to be paid to any person or persons having or holding any right, title, or interest in or to each of said tracts of land, for and in consideration of the appropriation of such land to the use of said petitioner. If any vacancy occur among said commissioners, by reason of any one or more of them refusing or neglecting to act, or by any other means, one or more commissioners may be appointed by said court or judge to fill such vacancy, upon notice being given of such vacancy as said court or judge may direct.

Meetings of Commissioners.

Sec. 7. The said court or judge shall appoint the time and place for the first meeting of said commisisoners, and the time for filing their report, and may give such further time as may be necessary for that purpose, if they shall not then have completed their duties. The said commissioners, or a majority of them, shall meet at the time and place, as ordered, and before entering on their duties shall be duly sworn to honestly, faithfully and impartially perform the duties imposed upon them; and any one of them may issue subpenas for witnesses for either of said parties and may administer oaths; and said commissioners may adjourn from place to place, and from time to time, as may be necessary for the proper discharge of their duties.

Powers and Duties of Commissioners—Claims to Compensation Assessed, How Asserted.

Sec. 8. The said commissioners shall proceed to view the several tracts of land, as ordered by said court or judge, and shall hear the allegations and proofs of said parties, and shall ascertain and assess the compensation for the land sought to be appropriated to be paid by said petitioner to the person or persons having or holding any right, title or interest in or to each of the several tracts of land; and such commissioners shall, on or before the time or times as ordered by said court or judge file in the clerk's office their report, signed by them, or a majority of them, setting forth their proccedings in the premises; and they may include all of said tracts in one report, or they may make several reports, including one or more of said tracts of land, if the court or judge shall so order, or if they shall deem it proper. In case there are adverse or conflicting claims to the compensation assessed for any tract of land, or any right, title or interest therein thus sought to be appropriated, the parties thus asserting such claim shall present the same by petition to the court or judge after the report of the commissioners shall have been filed, and the said court or judge shall proceed to hear and determine the same; and in such cases said petitioner may pay the amount of such compensation to the clerk of said court, to abide the order of the court or judge in said proceedings, and said petitioner shall not be liable for any of the costs caused by the adjudication of such confficting claims.

Objections to Report, How Made and Heard.

Sec. 9. The said petitioner, or any of said defendants, if dissatisfied with the report, may, within twenty days after the time of filing said report, and after ten days' notice to the

parties interested, move to set aside the report, and to have a new trial as to any tract of land, on good cause shown therefor, and the said court or judge shall set aside the report as to such tract of land, and may recommit the matter to the same or to other commissioners, who shall be ordered to proceed in like manner as those first appointed; but such matter shall not be more than twice recommitted to commissioners.

Report, When to Be Confirmed.

Sec. 10. Upon the expiration of twenty days after the filing of said report or reports, or at such further time as may be appointed therefor, if the motion and notice shall not have been made and given as aforesaid, and if the proceedings of said commissioners appear to have been correctly and properly done, the said court or judge shall confirm each of said reports and certify the same thereon.

Reports to Be Recorded—Orders by Judge—Costs, Etc.

Sec. 11 Each of said reports and the certificates thereon, upon the compensation therein named being paid, shall be recorded in the recorder's office of said county by said petitioner. The said court or judge may make all such orders as may be necessary or proper in the special proceedings provided for in this act, and shall cause the pleadings and proceedings to be amended whenever justice shall require it to be done, and shall direct the manner of the service of all orders and notices not herein specially provided for. Costs in such special proceedings shall be taxed by the clerk at the rates prescribed in the fee bill for said county in civil actions, and also the compensation of the commisisoners which shall be fixed by the court or judge, and shall be paid by said petitioner, except in case where a defendant shall move for a new trial, and the compensation assessed by the commisisoners shall not be increased more than ten per cent upon the previous assessment, in which case such defendant shall pay the costs.

Defective Title, New Proceedings Thereon—Petitioner Entitled to Possession.

Sec. 12. If the title attempted to be acquired by virtue of the provisions of this act shall be found to be defective from any cause, such petitioner may again institute proceedings to acquire the same, as in this act prescribed, and at any stage of such new proceedings, or of any proceedings under this act, the court or judge in chambers may rule, or by order in their behalf made, authorize such petitioner, if already in possession, to continue in the use and possession, and if not in possession, to

take possession of and use such premises during the pendency of and until the final conclusion of such proceedings, and may stal all actions and proceedings against such petitioner on account thereof, provided such petitioner shall pay a sufficient sum into court, or give security, to be approved by such court or judge, to pay the compensation in that behalf when ascertained.

Petitioner Acquires the Land.

Sec. 13. Upon the filing of the report of the commissioners for record as above provided for, and upon the payment or tender of the compensation and costs as prescribed in this act, the real estate, or the right, title or interest therein described in such report, shall become the property of said petitioner for the purpose of the business of mining, milling, smelting or other reduction of ores as aforesaid, so long as the same shall be continued, and shall be deemed to be acquired for and appropriated to public use.

Payments to Be Made, When.

Sec. 14. Such petitioner shall, within thirty days after the final confirmation of the report aforesaid, pay or tender the sum of money ascertained and assessed by said commissioners as and for the compensation of each tract of land described in said report of which the compensation was ordered by said court or judge to be ascertained and assessed as aforesaid; and said payment or tender may be made to the persons or persons owning said tract of land, or having or holding any right, title or interest therein, according to the amount or extent of the right, title or interest owned or held therein by such person or persons; or said payment may be made to the said clerk for said persons, and the same shall be deemed and taken as a payment to such person or persons, and shall be as effectual for all purposes as if the said sum of money had been personally paid to each and all of the persons entitled thereto.

Realty of Incompetent Persons, How Acquired—Voluntary Sale.

Sec. 15. If it shall become necessary for any of the purposes aforesaid for such petitioner to acquire any real estate, or any right, title or interest therein, which is the property of any infant, idiot or insane person, the guardian, executor, or administrator, as the case may be, shall be subject to process, judgment and decree as herein provided for persons of full age or capable of contracting, or without such process, judgment or decree, they may sell and convey the property desired to said petitioner; but neither such sale or conveyance shall be valid for any

purpose until the same shall have been approved by the judge of the proper court, and said judge is hereby authorized to examine such deeds and conveyances, and if he shall deem the same just and proper, he shall approve the same, and thereupon such conveyances shall have the same force and effect for the purposes in this section mentioned as if the same had been executed by persons competent to convey lands in their own names.

Payment to Person Entitled.

Sec. 16. The said court or judge shall, at the time of the payment of any sum of money to the said clerk under the provisions of this act, or at such other time or times as may be ordered, direct and order the same to be paid over to the person or persons who shall upon satisfactory proof appear to be entitled thereto.

Term "Person" Defined.

Sec. 17. In all the proceedings in relation to the sale or appropriation of real estate, and ascertaining and receiving the compensation therefor, for the purposes as prescribed in this act, the term "person" shall be deemed to include municipal or other corporations, and the word "petitioner" to designate any person or number of persons, company or corporation who may in any case petition as provided in this act.

Minutes of Proceedings.

Sec. 18. The minutes of the proceedings had before such judge shall be entered by said clerk, in the same manner and with the same force and effect, as if the proceedings were had before said court in term time.

Dayton Gold and Silver Mining Company v. W. M. Seawell, 11 Nev. 394; Overman S. Mining Co. v. Corcoran, 15 Nev. 147.

(For additional laws of 1907 on "Eminent Domain," see Laws of 1907, p. 79. Too long for this book.)

MINER MAY ENTER AGRICULTURAL OR GRAZING LAND.

Section 1. Any person now legally occupying and settled upon, or who may hereafter occupy or settle upon, any of the public lands in this State, for the purpose of cultivating or grazing the same, may commence and maintain any action for interference with, or injuries done to, his or her possession of said land, against any person or persons so interfering with or injuring such land or possession; provided, that if the lands so

occupied and possessed contain mines of any of the precious metals, the possession or claim of the person or persons occupying the same, for the purposes aforesaid, shall not preclude the working of such mines by any person or persons desiring so to do, as fully and unreservedly as they might or could do had no possession or claim been made for grazing or agricultural purposes.

May Enter Upon Mineral Lands—Compensation for Injury.

Sec. 2. The several grants made by the United States to the State of Nevada reserved the mineral lands. Sales of such lands made by the State were made subject to such reservation. Any citizen of the United States, or person having declared his intention to bzecome such, may enter upon any mineral lands in this State, notwithstanding the State's selection, and explore for gold, silver, copper, lead, cinnabar, or other valuable mineral, and upon the discovery of such valuable mineral, may work and mine the same in pursuance of the local rules and regulations of the miners and the laws of the United States; provided, that after a person who has purchased land from the State has made valuable improvements thereon, such improvements shall not be taken or injured without full compensation. But such improvements may be condemned for the uses and purposes of mining in like manner as private property is by law condemned and taken for public use. Mining for gold, silver, copper, lead, cinnabar, and other valuable minerals is the paramount interest of this State, and is hereby declared to be a public use. Stats. 1887, p. 102.

State Disclaims Interest in Mineral Lands.

Sec. 3. Every contract, patent or deed hereafter made by this State or the authorized agents thereof, shall contain a provision expressly reserving all mines of gold, silver, copper, lead, cinnabar and other valuable minerals that may exist in such land, and the State, for itself and its grantees, hereby disclaims any interest in mineral lands heretofore or hereafter selected by the State on account of any grant fro mthe United States. All persons desiring titles to mines upon lands which have been selected by the State must obtain such title from the United States, under the laws of congress, notwithstandingn such selection. Stats. 1897, p. 36.

Heydenfeldt v. Daney G. & S. M. Co., 10 Nev. 290.

TRESPASS ON PATENTED MINING GROUND.

Statutes 1901, p. 118.

Trespassing a Misdeameanor.

Section 1. Any person or persons knowingly and unlawfully trespassing upon any mining ground for which a United States mineral patent has been issued shall be guilty of a misdemeanor.

Sec. 2. Any person or persons knowingly and unlawfully entering and trespassing upon any mining ground for which a United States mineral patent has been issued, and removes therefrom any soil, substance, or mineral of any kind or character whatever or interferes in any manner with the workings of said patented mine, or places in any shaft, cut, tunnel or workings of said patented mine any obstruction to the develpment or free use and occupancy of the same by the lawful owners or their legal agents or representatives, shall be deemed guilty of misdemeanor, and upon conviction thereof shall be fined in the sum of three hundred dolars or imprisoned in the county jail for the term of six months, or by both such fine and imprisonment.

Applies to Esmeralda County.

Sec. 3. The provisions of this Act shall only apply to counties that cast between 400 and 425 votes for Members of Congress, at the general election held in 1900.

LEGAL DAY'S WORK.

Statutes 1903, p. 33.

Eight Hours a Legal Day's Labor in Underground Mines.

Section 1. The period of employment of working men in all underground mines or workings shall be eight (8) hours per day, except in cases of emergency where life or property is in imminent danger.

Same in Smelters, Etc.

Sec. 2. The period of employment of working men in smelters and in all other institutions for the reduction or refining of ores or metals shall be eight (8) hours per day, except in cases of emergency where life or property is in imminent danger.

Misdemeanor—Penalty.

Sec. 3. Any person who violates either of the preceding sections of this Act, or any person, corporation, employer or his

or its agent, who hires, contracts with, or causes any person to work in an underground mine or other underground workings, or in a smelter or any other institution or place for the reduction or refining of ores or metals for a period of time longer than eight (8) hours during one day unless life and property shall be in imminent danger shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than one hundred ($100) dollars, nor more than five hundred ($500) dollars, or imprisonment in the county jail not more than six months, or by both such fine and imprisonment.

PROTECTION OF EMPLOYEES.

Statutes 1903, p. 34.

Limiting Use of Collars, Sleeves or Pulleys on Shafting Machinery.

Section 1. It shall be unlawful for any person, company or corporation, after the first day of July, nineteen hundred and three, to construct or place any shaft or shafting with collars, sleeves or pulleys over two feet in diameter attached or secured to such shaft by set screws projecting above the hub of such collars, sleeves or pulleys. In all such cases where set screws are used, the heads thereof shall be countersunk below the surface of the hub of the collar, sleeve or pulley in which they are placed.

Misdemeanor—Penalty.

Sec. 2. Any person or corporation who shall, after the first day of July, 1903, fail or refuse to comply with the requirements of this Act, when constructing or changing any machinery, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than one hundred nor more than five hundred dollars.

Not to Prevent Recovery of Damages.

Sec. 3. Nothing contained in this Act shall be so construed as to prevent recovery in a suit for damages, for injuries sustained by the party so injured or his heirs or administrators.

SAFETY CAGES.

(Act of March 17, 1905, p. 197.)

Section 1. It shall be unlawful for any person or persons, company or companies, corporation or corporations, after the first day of July A. D. nineteen hundred and five, to sink or work through any vertical shaft, at a greater depth than three

hundred and fifty feet, unless the said shaft shall be provided with an iron-bonneted safety cage, to be used in the lowering and hoisting of the employees of such person or persons, company or companies, corporation or corporations. The safety apparatus shall be securely fastened to the cage and shall be of sufficient strength to hold the cage loaded at any depth to which the shaft may be sunk. In any shaft less than three hundred and fifty feet deep where no safety cage is used and where crosshead or crossheads are used, platforms for employees, to ride upon in lowering and hoisting said employees shall be placed above said crosshead or crossheads; the provisions of this Act requiring the placing of said platforms on said crosshead or crossheads not later than the first day of July, A. D. nineteen hundred and five.

Sec. 2. Any person or persons, company or companies, corporation or corporations or the managing agent of any person or persons, company or companies, corporation or corporations violating the provisions of this Act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in the sum of five hundred dollars, or imprisoned in the county jail for the term of six months, or by both such fine and imprisonment.

AMENDMENT OF 1907.

AN ACT

FOR THE BETTER PROTECTION OF THE RIGHTS OF LOCATORS OF MINING CLAIMS.

Section 1. Whenever the locator of a mining claim shall file his certificate of location in accordance with the law and pay the prescribed fees therefor, it shall be the duty of the Mining District Recorder, and of the County Recorder, with whom said certificate is filed forthwith to give such locator, or his agent, a receipt therefor. Said receipt shall contain name of the claim given in notice filed, and date of location thereof, stating the day and hour such certificate of location was filed.

Sec. 2. The receipt called for in section one of this Act shall be prima facie evidence that the certificate of location has been duly filed, and of the date of filing.

(Two sections not material omitted here.)

Sec. 5. Any Mining District Recorder or County Recorder neglecting or refusing to comply with the provisions of this Act shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine not exceeding five hundred ($500) dollars, or by imprisonment in the county jail not exceeding six months, or by both such fine and imprisonment.

THE NEW NEVADA GRUBSTAKE LAW.

Chapter CLXXIV—An Act to regulate grubstake contracts and prospecting agreements, and to provide for the recording of the same. (Approved March 29, 1907.)

Section 1. All grubstake contracts and prospecting agreements hereafter entered into and which may in any way affect the title of mining locations, or other locations under the Mining Laws of this State, shall be void and of no effect except between the parties to said contract or agreement, unless the instrument shall first have been recorded in the office of the county recorder of the county in which said instrument is made. The instrument or instruments shall be duly acknowledged before a notary public or other person competent to take acknowledgments. Grubstake contracts and prospecting agreements, duly acknowledged and recorded as provided for in this act, shall be prima facie evidence in all courts of justice in this State in all cases wherein the title to mining locations and other locations under the mining laws of this State are in dispute.

PROSPECTING ON PRIVATE LAND.

Chapter LXV. An Act supplementary to an Act entitled "An Act to encourage the mining, milling, smelting or other reduction of ores in the State of Nevada," approved March 1, 1875. (Approved March 14, 1907.)

The People of the State of Nevada, represented in Senate and Assembly, do enact as follows:

Section 1. Any person, a citizen of the United States, may enter upon any unfenced and unimproved land in the State of Nevada held in private ownership, excepting mining claims and mining property already located or occupied for mining purposes, and may prospect thereon for gold, silver, or other valuable minerals or metals, being responsible to the owner of the land for all damage done thereon.

Sec. 2. Any person, a citizen of the United States, discovering a ledge or deposit containing gold, silver or other valuable mineral or metals in or upon any unfenced and unimproved land in this State held in private ownership, excepting mining claims or mining property already located or occupied for mining purposes, may locate such ledge or deposit, in accordance with the laws of the United States, and of this State in respect to the location of mining claims, the same as though such ledge or deposit was found upon the public domain, and may acquire title to such land so located by means of the special proceedings prescribed in this Act. The said special proceedings shall be substantially as follows:

There shall be filed in the clerk's office of the District Court in the county where the real estate is situated a petition verified according to law, stating therein the names of the person or persons presenting the petition; that he or they have discovered a ledge or deposit containing gold, silver or some other valuable mineral or metal; the description by metes and bounds or by some other accurate designation of the tract or tracts of land, located in the manner of mining claims as herein provided and desired to be appropriated for mining purposes; that said land is more valuable for mining purposes than the purpose for which the same is being held; the names of those in possession of said land, and those claiming any right, title or interest therein, so far as the same can be obtained by reasonable diligence.

Sec. 3. That the proceedings following the filing of such petition shall be as prescribed in that certain Act of the Legislature of this State, entitled "An Act to encourage mining, milling, smelting or other reduction of ores in the State of Nevada," approved March 1, 1875, in so far as the same are not inconsistent with the provisions of this act.

Sec. 4. If upon the hearing of the petition filed as provided in this Act it appears to the satisfaction of the court or judge thereof that the land in question is more valuable for mining than the purpose for which the same is being used, then the petitioner or petitioners shall acquire title thereto in manner similar to that prescribed in the Act to which this Act is supplementary.

Sec. 5. In determining the value of the land as a basis for the compensation which the petitioner or petitioners shall pay to the owners thereof, the minerals therein contained shall not be considered as going to make up the value, but the value which shall govern is the reasonable value of the land for the use to which the same has previously been put, or reasonably might be expected to be put in the future, by the owners thereof.

Liability of Common Carriers and Mine Owners to Employees.

For "An Act regulating the liability of common carriers, and mine and mill owners and operators to their employees," (approved March 29, 1907), see page 437 of the 1907 Session Laws of Nevada.

Chapter xx. An Act creating the office of Mineral Land Commissioner, defining his duties, etc. (Approved February 26, 1907.)

This law provides that Attorney General shall be ex-officio Mineral Land Commissioner, and shall see that no mineral lands shall be patented on agricultural entries. Too long for this book. See page 39, Session Laws of Nevada, of 1907.

An Act approved March 29, 1907, makes it a felony to antedate or put any false date, or date other than the one on which location is made, on any location notice.

An Act approved March 29, 1907, provides for recovery of stolen ore. Laws of 1907, page 416.

For an Act regarding purchases of ores see Laws of 1907, page 365.

NEVADA

PRELIMINARY NOTICE FOR POSTING.

Notice is hereby given that we, ...
being each native born citizens of the United States, have on this..... day of .....190.. discovered a lode bearing gold, silver and other valuable deposits, and have named the same the.....Lode. The course of the lode is.....and we claim .....hundred feet on the vein ..... of the point where the discovery was made, and upon which this notice is posted, and ..... hundred feet .....from said place of discovery; and we claim three hundred feet on each side of the center of the vein.

Dated and posted on the ground this.....day of.....190..

.....

Act. 1897, Sec. I. Any person, a citizen of the United States, or one who has declared his intention to become such, who discovers a vein or lode, may locate a claim upon such vein or lode by defining the boundaries of the claim in manner hereinafter described, and by posting a notice of such location at the point of discovery, which notice must contain: First:—The name of the lode or claim. Second:—The name of the locator or locators. Third:—The date of the location. Fourth:—The number of linear feet claimed in length along the course of the vein, each way from the point of discovery, with the width on each side of the center of the vein, and the general course of the vein or lode as near as may be.

NEVADA

LOCATION CERTIFICATE.—LODE CLAIM.

We, ..., being native born citizens of the United States, hereby declare:

That on the.....day of.....190.., we discovered and located a lode bearing gold, silver and other valuable deposits, and on the same day posted our notice of location at the place of discovery, and named the lode the.....

.....Lode.

That the general course of the vein is.....and ....., and we claim.....hundred feet on the vein†....., and..... hundred feet†..... from .....the point of discovery, and three hundred feet on each side of the center of the vein.

That the discovery shaft is located at....., and is ..... feet deep and .....feet long and .....feet wide, and discloses a well-defined crevice, lode or vein.

That the claim is located in the.....Mining District, in .....County, State of Nevada, being situated about *.....

That the following is a description of said location as marked on the ground: Commencing at the..... of said claim, a....., from which initial point the discovery monument is distant about .....feet in a ..... direction; thence running **.....

Dated.....190..

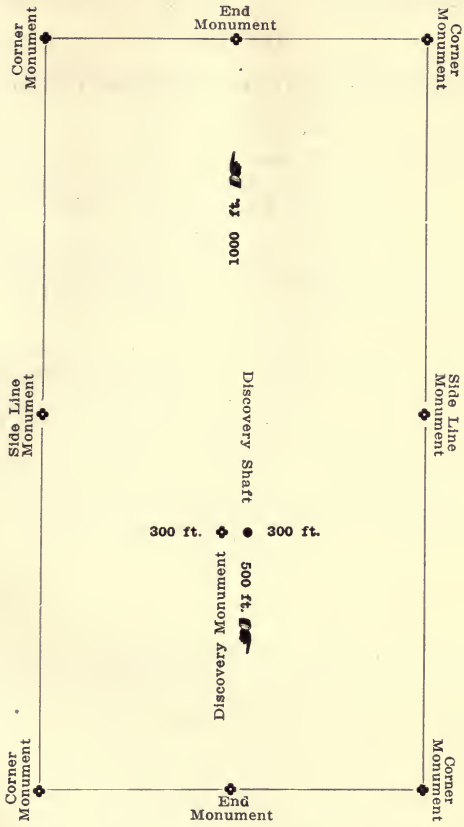
.....

.....

NOTE.—†Here put in North, South, East or West, as case may be.

*Here refer to some natural object or permanent monument, so as to identify the locality of the claim, in compliance with Sec. 2324, Revised Statutes of the United States, and Sec. 3 of the Act of 1897, Nevada. A road house, tree, known mountain or peak, government corner, mill, or known mining claim, etc., are such objects or monuments, as "about one mile directly east from Jim Budd's quartz mill, and about 400 rods west from the Lone Star Mine," etc.

**Here follows description of claim, for instance: "Thence running 600 feet northwesterly to the northwest corner of said claim, at which is a mound of rocks four feet high, marked so-and-so (if marked); thence 1,500 feet southwesterly to the southwest corner of said claim, a mound of rocks," etc.; so going around the claim to point of beginning.



This diagram is to give locator a general idea of plan of location under the new law. The Discovery Shaft can be in the center of claim or any distance from either end desired. In the diagram it is placed 500 feet from one end and 1000 feet from the other. Commence description of claim at a center end monument, giving its distance and direction from center of Discovery Shaft; thence bound the claim in either direction. In description be careful to state locality of claim with reference to some natural object, or permanent monument, as will identify the claim.

NEVADA.

NOTICE OF LOCATION OF PLACER CLAIM.

Notice is hereby given, That..... citizen.. of the United States, h.. this.....day of .....190.. discovered a valuable placer deposit within the limits of this claim; that by virtue of said discovery, ... ha.. located, and hereby locate and claim the following described land, situate in.....Mining District, ... County, Nevada, to-wit:* ..... of section ....., Township....., Range..... ....., containing..... .....acres.† Said claim is hereby named.....Placer Claim. Said claim is marked upon the ground as follows:‡.....

This notice is posted on a mound of rocks at the point of discovery, situated § .....

Dated and posted on the ground, this....day of .....190..

‖.....

.....

Locator.

---

*The statute provides that the locator must give "a description of the claim by reference to legal subdivisions of sections, if the location is made in conformity with the public surveys; otherwise a description with reference to some natural object or permanent monument as will identify the claim.

†When not described by legal subdivisions, the description should conform to that contained in the final certificate or location of a lode claim.

‡The statute provides that, whether described by legal subdivisions or not, the location shall be marked by the locator on the ground, and as the affidavit to be filed later is not required to contain a description of the claim, we think this notice should state how the location is marked; as, for instance, "At the N. E. corner of said tract a mound of rocks 3 ft. high, marked so-and-so (if marked), and at the N. W. corner a stake in a mound of rocks, marked," etc., and so on for each monument enclosing the claim.

§Here state where the discovery is located, as, for instance, "20 ft. S. W. of the N.E. corner monument."

‖A duplicate of this notice must be filed for record with the county recorder within thirty days from the discovery; and the locator is allowed thirty days to mark his location on the ground. Within sixty days the locator must do work upon this claim to the amount of at least $20, and file an affidavit with the county recorder showing such performance.

AFFIDAVIT OF ANNUAL LABOR.

For this form use same as given for Arizona—ante.

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Mines operated and developed by contract on the

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MINING LAWS OF UTAH

(See also U. S. Mining Laws)

Mining Act of 1899.

An Act providing for the Manner of Locating and Recording Quartz and Placer Mining Claims, and Copying Records and Defining the Duties of County Recorders and District Mining Recorders, and Repealing certain Sections of the Revised Statutes of Utah.

Section 1. (Extent. No location to be made until discovery of vein.) A Mining Claim, whether located by one or more persons, may equal, but shall not exceed, one thousand five hundred feet in length along the vein or lode; but no location of a mining claim shall be made until the discovery of the vein or lode within the limits of the claim located. Any lode mining claim may extend three hundred feet on each side of the middle of the vein at the surface, except where adverse rights render a lesser width necessary. The end lines of each claim must be parallel.

1 Utah 173, 2 Utah 174,

Sec. 2. (Monument. Notice.) The locator at the time of making the discovery of such vein or lode, must erect a monument at the place of discovery, and post thereon his notice of location, which notice shall contain:

1st. The name of the lode or claim.

2nd. The name of the locator or locators.

3rd. The date of the location.

4th. If a lode claim, the number of linear feet claimed in length along the course of the vein each way from the point of discovery, with the width on each side of the center of the vein, and the general course of the vein or lode, as near as may be, and such a description of the claim, located by reference to some natural object or permanent monument as will identify the claim.

5th. If a placer or millsite claim, the number of acres or superficial feet claimed, and such a description of the claim or millsite located by reference to some natural object or permanent monument as will identify the claim or millsite.

5 Utah 3, 1 Utah 292, 2 Utah 54, 3 Utah 94, 3 Utah 59, 111 U. S. 350, 3 Utah 77, 3 Utah 235, 7 Utah 8, 151 U. S. 317, 160 U. S. 303, 6 Utah 273, 130 U. S. 256, 4 Utah 521, 116 U. S. 418, 124 U. S. 326, 2 Utah 174, 7 Utah 515, 160 U.

S. 303, 10 Utah 266, 11 Utah 324, 9 Utah 192, 3 Utah 160, 98 U. S. 463, 2 Utah 355.

Sec. 3. (Boundaries Marked.) Mining Claims and mill sites must be distinctly marked on the ground, so that the boundaries thereof can be readily traced.

Sec. 4. (Filing copy of notice. Fee.) Within thirty days from the date of posting the location notice upon the claim, the locator or locators, or his or their assigns, must file for record in the office of the county recorder of the county in which such claim is situated, if said claim be situated without and beyond an original mining district, a substantial copy of such notice of location. Such county recorder shall charge and collect a fee of seventy-five cents for filing and recording and indexing and abstracting such notice; PROVIDED, that such notice of location shall not be abstracted unless a subsequent conveyance affecting the same property be filed for record, when said notice shall be abstracted.

160 U. S. 303.

Sec. 5. (Notice of assessment work being done.) Every person or company owning a group of claims, and doing the development or assessment work, for said group at one point, shall post a notice upon each claim at the discovery monument, stating where such work is being done, and also post a notice at the entrance of the workings, where said work is done, stating the names of the claims for which the work is done.

Sec. 6. (Filing affidavit of work done.) The owner of any quartz lode or placer mining claim who shall do or perform, or cause to be done or performed the annual labor or improvements required by the laws of the United States, in order to prevent a forfeiture of the claim, must, within thirty days after the completion of such work or improvements, file in the office of the county recorder in which the greater part of the mining district, in which such claim is located, is situated, his affidavit or an affidavit or affidavits of the person or persons who performed or directed such labor or made or directed such improvements, and shall file a duplicate thereof with the district mining recorder of the district in which said claim is situated, showing:

1st. The name of the claim, and where situated.

2nd. The number of days work done and the character and value of the improvements placed thereon.

3rd. The date or dates of performing said labor and making said improvements and number of cubic feet of earth or rock removed.

4th. At whose instance or request said work was done, or improvements made.

5th. The actual amount paid for said labor and improvements, and by whom paid, when the same was not done by the owner or owners of said claim.

Such affidavits or duly certified copies thereof shall be prima facie evidence of the facts therein stated.

111 U. S. 350, 6 Utah 183, 160 U. S. 303.

Sec. 7. (Reorganization of mining districts.) Mining districts may be organized, and all existing districts may be reorganized, and the rules and regulations of the said mining district shall govern the said district according to the laws of the United States, in cases where a district organization is desired; PROVIDED, that the nearest boundary line of any mining district shall not be within ten miles from the county recorder's office of any county.

Sec. 8. (Copying records. Expense.) Upon application of the district mining recorder of any mining district to the board of county commissioners of the county having in custody the records of the said mining district, the said board of county commissioners shall cause the records of such district to be copied by the county recorder, and shall cause all records of documents pertaining to district mining records, recorded since June 4th, 1896, up to the time of delivery, to be recorded in the original records of the mining district in which the property is situated, and the original records when so amended, shall be delivered to such district mining recorder. The copy so made shall remain in the office of the county recorder, and shall be considered as the original record. One-half of the expense of copying such records shall be paid out of the county treasury, and one-half shall be paid out of the state treasury.

Sec. 9. (Duplicate notice of location. Fee. Penalty.) It shall be the duty of every district mining recorder to require every person depositing for record a notice of location to make a duplicate copy thereof, which copy said mining recorder shall carefully compare with the original and mark "duplicate," and endorse thereon his name, and the date and hour and fact of filing in his office of the original. He shall, at the time of filing the duplicate notice with the original, collect, in addition to his own fee, the sum of seventy-five cents, which shall be the fee for the county recorder for recording such duplicate. He shall immediately deposit the duplicate copy with the county recorder of the county in which the greater part of the said mining district is located for record, or forward the same to him by mail or express, or in such other manner as will insure safe transit and delivery. The fee of seventy-five cents shall accompany the duplicate. The county recorder shall record said duplicate with the endorsements thereon for said fee. The record of said duplicate

notice in the office of the county recorder shall be considered an original record. Every person neglecting or refusing to comply with any of the provisions of this section shall be deemed guilty of a misdemeanor, and, upon conviction thereof shall be punished by a fine not exceeding five hundred dollars, or by imprisonment in the county jail not exceeding six months, or by both such fine and imprisonment.

Sec. 10. (Copies of notices to be received as evidence). Copies of notices of location of mining claims, mill sites and tunnel sites, heretofore recorded in the records of the several mining districts, and copies of the mining rules and regulations in force in the several mining districts, in like manner recorded, heretofore duly certified by the mining recorder, shall be receivable in all tribunals and before all officers of this state as prima facie evidence.

Sec. 11. Where books, records and documents pertaining to the office of district mining recorder have been or shall hereafter be deposited in the office of any county recorder of this state, such county recorder is authorized to make and certify copies therefrom, and such certified copies shall be receivable in all tribunals and before all officers of this state in the same manner and to the same effect as if such records had been originally filed or made in the office of the county recorder.

Sec. 12. (County Recorder to Record Rules. Certified Copies.) It shall be the duty of each county recorder to record the mining rules and regulations of the several mining districts in his county without fee, and certified copies of such records shall be received in all tribunals and before all officers of this state as prima facie evidence of such rules and regulations, and it shall be his duty to record, index and abstract all mining location notices presented for record, for a fee not to exceed seventy-five cents for each notice and to file and index all affidavits of labor presented for filing affecting one mining claim for a fee not to exceed twenty-five cents; PROVIDED, that when an affidavit of labor contains the name of more than one mining claim, an additional fee of ten cents shall be charged for each additional claim named therein.

Sec. 13. (Recorder of Mining District to give Bond.) The recorder of each mining district shall take the oath of office and give bond with sureties in the penal sum of one thousand dollars. Such bond must be approved by the district judge and filed in the office of the county clerk of the county in which the greater part of the said mining district is located. Where the recorder of any mining district appoints a deputy, the recorder and his bondsmen shall be responsible for the official acts of such deputy.

Sec. 14. (District Recorder to make Copies.) It shall be the duty of the recorder of a mining district upon request and payment or tender of the fees therefor, to make and deliver to any person requesting the same, duly certified copies of any records in his custody, and for a failure so to do, or for receiving larger fees for any such service than those provided he shall be deemed guilty of a misdemeanor.

Sec. 15. (Vacancy. County Recorder to receive Records.) Whenever there is a vacancy in the office of recorder of any mining district, or the person holding such office shall remove from the district, leaving therein no qualified successor in office; or whenever from any cause there is no person in such district authorized to retain the custody and give certified copies of the records, it shall be the duty of the person having custody of the records to deposit the same in the office of the county recorder of the county in which such mining district or the greater part thereof is situated, and the county recorder shall receive such records, and is hereby authorized to make and certify copies therefrom, and such certified copies shall be received in evidence in all courts and before all officers and tribunals. The production of a certified copy so made, shall be, without other proof, evidence that such records were properly in the custody of the county recorder.

Sec. 16. (Fees of Mining Recorder.) Every mining recorder shall be allowed the same fees for recording and making copies of any record in his custody as are allowed by law to county recorders for similar services; PROVIDED, that fees for recording location notices may equal but shall not exceed one dollar for each notice.

Sec. 17. (Sections Repealed.) Sections 1495, 1496, 1497, 1498, 1499, 1500, 1501, 1502, 1503, 1504, 1505, 1506, 1537 and 990 of the Revised Statutes of Utah are hereby repealed.

Approved March 3, 1899.

REVISED STATUTES.

Sec. 1337. (In Mines and Smelters.) The period of employment of working men in all underground mines or workings, and in smelters and all other institutions for the reduction or refining of ores or metals, shall be eight hours per day, except in cases of emergency where life or property is in imminent danger. Any person, body corporate, agent, manager or employer who shall violate any of the provisions of this section shall be deemed guilty of a misdemeanor.

14 Utah 96, 14 Utah 71.

Sec. 1338. (This Section makes it a misdemeanor to employ any child under 14 years in any mine or smelter).

Sec. 1381. (Liens on Mines.) The provisions of this chapter shall apply to all persons who shall do work or furnish

materials for the working, preservation, or development of any mine, lode, mining claim, or deposit yielding metals or minerals of any kind, or for the working, preservation, or development of any such mine, lode, or deposit in search of such metals or minerals, and to all persons who shall do work or furnish materials upon any shaft, tunnel, incline, adit, drift, drain, or other excavation of any such mine, lode, or deposit; PROVIDED, that when two or more such lodes or deposits, owned or claimed by the same person or persons, or where the owners are different persons, and the same with the consent of all shall be worked through a common shaft, tunnel, incline, adit, drift, or other excavation, then all the mines, lodes, or deposits so worked, shall for the purpose of this chapter, be deemed one mine.

6 Utah 351, 151 U. S. 447, 104 U. S. 176.

Sec. 1382. (Id. Attaches to Lessee's Interest.) The next preceding section shall not be deemed to apply to the owner or owners of any mine, lode, deposit, shaft, tunnel, incline, adit, drift or other excavation when the same shall be worked by a lessee, under bond or otherwise; but, in such case, the persons entitled to a lien under this chapter shall have a lien on the leasehold interest and on the ores and mineral bearing rock or dirt mined and excavated by the lessee.

Sec. 1535. (Interfering with Notices, Stakes, Persons in possession, or Records.) Any person or persons who shall willfully or maliciously tear down or deface a notice posted on a mining claim, or take up or destroy any stake or monument marking any such claim, or interfere with any person lawfully in possession of such claim, or who shall alter, erase, deface, or destroy any record kept by a mining recorder, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than twenty-five, nor more than one hundred dollars, or by imprisonment for not less than ten days, nor more than six months, or by both such fine and imprisonment. Justices of the peace shall have jurisdiction of such offenses.

Sec. 1536. (Wrongful taking of Ores. Damages.) Any person wrongfully entering upon any mine or mining claim, and carrying away ores therefrom, or wrongfully extracting and selling ores from any mine, shall be liable to the owner or owners of such ore for three times the value thereof; and should the plaintiff file his affidavit that the defendant did unlawfully take ores, the defendant may be arrested and held to bail, as in cases for the recovery of the possession of personal property unjustly detained.

FENCING, SHAFTS, ETC.

Sec. 1538. (Inclosing shaft.) Any person that has sunk or

shall sink a shaft or well on the public domain, or commons, for any purpose, shall inclose such shaft or well with a substantial curb or fence, which shall be at least four and a half feet high.

Sec. 1539. (Id. Pits. Slack coal burning.) The owner, lessee or agent of any mine, who, by working such mine, has caused or may hereafter cause, the surface on the public domain, commons, highway, or other lands to cave in and form a pit in which persons or animals are likely to fall, shall cause such cave or sink to be filled up, or to be securely fenced with a good, lawful fence; and if he has heaped or piled, or shall hereafter heap or pile, slack coal on the surface, and such slack coal shall take fire and endanger the life or safety of any person or animal, he shall cause the fire to be extinguished, or the burning coal to be inclosed with a sufficient fence.

Sec. 1540. (Penalty.) Any person failing to comply with the provisions of this chapter shall be deemed guilty of a misdemeanor, and shall be liable for all damages.

Sec. 2370. (Mineral lands to be leased.) Any state lands upon which stone, coal, coal oil, gas, or any mineral may be found, whether such land has theretofore been leased for a term of years or not, may be leased for the purpose of obtaining therefrom such stone, coal, coal oil, gas, or any mineral, for such length of time and conditioned upon the payment to the state board of land commissioners of such royalty upon the product, as the state board of land commissioners may determine.

Sec. 2371. (Rules regarding lease.) The state board of land commissioners is hereby authorized to make all necessary rules and regulations to carry the foregoing section into effect.

Sec. 3134. (Concerns trials of mining cases.)

Sec. 3245. (Property exempt from execution.)

5. The cabin or dwelling of a miner not exceeding in value the sum of five hundred dollars; also his sluices, pipes, hose, windlass, derrick, cars, pumps, and tools not exceeding in value five hundred dollars.

Sec. 3511. (Action to determine adverse claim.) An action may be brought by any person against another who claims an estate or interest in real property adverse to him, for the purpose of determining such adverse claim.

3 Utah 235.

Sec. 3515. (Order for survey of lands and mines. Notice.) The court in which an action is pending for the recovery of real property, or for damages for an injury thereto, or to quiet title or to determine adverse claims thereto, or a judge of such court may, on motion, upon notice by either party, for good cause shown, grant an order allowing to such party the right to enter upon the property and make survey and measurement thereof,

and of any tunnels, shafts or drifts thereon, for the purpose of the action, even though entry for such purpose has to be made through other lands belonging to parties to the action.

Sec. 3521. (Mining customs and rules control when.) In actions respecting mining claims proof must be admitted of the customs, usages or regulations established and in force in the district, bar, diggings or camp embracing such claim, and such customs, usages or regulations when not in conflict with the laws of this state, or of the United States, must govern the decision of the action.

EMINENT DOMAIN.

Sec. 3588. (Exercised in behalf of what uses.) Subject to the provisions of chapter 65, Revised Statutes, 1898, the right of eminent domain may be exercised in behalf of the following public uses:

1. All public uses authorized by the government of the United States.

5. Reservoirs, dams, water-gates, canals, ditches, flumes, tunnels, aqueducts and pipes for supplying persons, mines, mills, smelters or other works for the reduction of ores, with water for domestic or other uses, or for irrigating purposes, or for draining and reclaiming lands, or for floating logs and lumber on streams not navigable.

6. Roads, railroads, tramways, tunnels, ditches, flumes, pipes and dumping places to facilitate the milling, smelting or other reduction of ores, or the working of mines; outlets, natural or otherwise, for the deposit or conduct of tailings, refuse, or water from mills, smelters or other works for the reduction of ores, or from mines; mill dams; natural gas or oil pipe lines, tanks or reservoirs; also an occupancy in common by the owners or possessors of different mines, mills, smelters, or other places for the reduction of ores, of any place for the flow, deposit or conduct of tailings or refuse matter.

10. Canals, reservoirs, dams, ditches, flumes, aqueducts, and pipes for supplying and storing water for the operation of machinery for the purpose of generating and transmitting electricity for power, light or heat.

Sec. 4356. (Concerns larceny of ores, etc.)

Sec. 4399. (Salting Mines. Fraudulent Assay.) Every person who, with intent to cheat, wrong, or defraud, places in or upon any mine or mining claim, any ores or specimens of ores not extracted therefrom, or exhibits any ore or certificate of assay of ore not extracted therefrom, for the purpose of selling any mine or mining claim, or interest therein, or who obtains any money or property by any such false pretense or artifice, is guilty of a felony.

Sec. 4400. (Changing samples or assay certificate.) Every person who interferes with, or in any manner changes, samples

of ores or bullion produced for sampling, or changes or alters samples or packages of ores or bullion which have been purchased for assaying, or who shall change or alter any certificate of sampling or assaying, with intent to cheat, wrong, or defraud, is guilty of a misdemeanor.

Sec. 4401. (Making or publishing false assay.) Every person who, with intent to cheat, wrong or defraud, makes or publishes a false sample of ore or bullion, or who makes or publishes, or causes to be published, a false assay of ore or bullion, is guilty of a misdemeanor.

COAL MINES.

An Act providing for the appointment of a coal mine inspector, defining his duties, fixing his salary and providing for the inspection of coal and hydro-carbon mines; providing for the health and safety of the persons employed therein, and for the protection of property connected therewith, and repealing chapter 2, title 42, of the Revised Statutes of Utah, 1898.

This Act can be found on page 221 of the 1905 Session Laws of the State of Utah. It is too long for this book.

FIRE PROTECTION IN MINES.

An Act to provide for fire protection in all of the mines of the State of Utah, and defining the same.

Section 1. (Certain mines to have fire protection.) That all mines having but one exit, and the same is covered with the building containing the mechanical plant, furnace room, or blacksmith shop, shall have fire protection. Where steam is used, hose of sufficient length to reach the farthest point of the plant shall be attached to feed pump or injector, and the same kept ready for immediate use. In mines where water is not available, chemical fire extinguishers or hand grenades shall be kept in convenient places for immediate use, and it shall be the duty of any owner or operator of a mine in the state of Utah to provide fire protection as mentioned in this section, by July 1st, 1901.

Sec. 2. (Penalty.) Any person or corporation who shall refuse or neglect to comply with the provisions of this act, shall be guilty of a misdemeanor.

Approved this 25th day of March, 1901.

SAFETY APPARATUS IN MINES.

An Act providing for safety apparatus to be used in all mines with the vertical shaft.

Section 1. (Certain shafts to be provided with Safety cages.) It is unlawful for any person or corporation to sink any vertical shaft, where mining cages are used, to a greater depth than

two hundred feet, unless the shaft is provided with an iron bonneted safety cage, to be used in lowering and hoisting employees, or any other person. The safety apparatus, whether consisting of eccentrics, springs or other device, must be securely fastened to the cage, and of sufficient strength to hold the cage loaded at any depth to which the shaft may be sunk. The iron bonnet must be made of boiler sheet iron of good quality, at least three-sixteenths of an inch in thickness, and must cover the top of the cage in such manner as to afford the greatest protection to life and limb from any debris or anything falling down the shaft.

Sec. 2. (Penalty.) Any violation of this act is punishable by a fine of not less than two hundred or more than five hundred dollars, the same to be paid into the county treasury of the county in which the case is tried.

Sec. 3. This act shall take effect upon approval.

Approved this 25th day of March, 1901.

LEASING AND SELLING MINING CLAIMS OF ESTATES.

An Act to authorize administrators, executors and guardians to lease mining claims and give an option to purchase the same, and authorizing the court to require bonds and prescribing conditions under which title may be obtained. (Page 9, Laws of 1903.)

Section 1. (Leasing mining claims belonging to estates.) When all or any portion of the estate of any person deceased, or of any ward under guardianship, consists of mining claims, whether patented or unpatented, or of interests in mining claims, the administrator or executor of such deceased person or the guardian of the property of the ward, may petition the court having jurisdiction of the estate for leave to lease mining claims, or interests in mining claims, belonging to the estate of the deceased, or to the ward with an option to the lessee to purchase the same; and if upon the hearing it appears to the court that it is for the interests of the estate, the court may make an order authorizing the administrator, executor or guardian to lease all, or such mining claims or interest therein belonging to the estate as he shall designate in the order, and to give an option to the lessee to purchase the same within a specified time, at a stipulated price, and when such order has been made, the executor, administrator or guardian may lease the mining claims specified in the order, and give the lessee an option to purchase the same, within the time, and at the price, specified in the order.

Sec. 2. Provides for bond of administrator before sale is confirmed.

Sec. 3. If the lessee complies with the terms of the lease, and accepts the option, and tenders the stipulated price, he shall be entitled to a deed for the mining claims upon which the option was given, but no title shall pass, under such option, until the acceptance of the option, and the deed executed pursuant thereto, have been reported to, and approved by the court.

Sec. 4. This act shall take effect upon approval.

Approved this 20th day of February, 1903.

An Act providing for the establishment of a State School of Mines. (Approved March 13, 1901, see page 31, Session Laws 1901.)

UTAH.
LOCATION NOTICE LODE CLAIM.

For this form use the same as given for Arizona.

UTAH.
LOCATION NOTICE PLACER CLAIM.

For this form use the same as given for California.

UTAH.
DIAGRAM OF LODE CLAIM.

For this map see page 35, Arizona Laws—use same.

AFFIDAVIT OF LABOR PERFORMED AND IMPROVEMENTS MADE.

State of Utah,

County of ....., ss.

....., being duly sworn, deposes and says that he is a citizen of the United States, and more than twenty-one years of age, and resides at.....in .....County, State of Utah, and is personally acquainted with the mining claim known as..... .....mining claim, situate in ..... Mining District, County of ....., State of Utah, the location notice of which is recorded in the office of the County Recorder of said County, in Book ..... of records of Mines, at page.....; that between the.....day of.....A. D. 190.., and the .....day of ..... A. D. 190.., at least .....dollars' worth of work and improvements were done and performed upon said claim, not including the location work of said claim. Such work and improvements were made by and at the expense of..... ..... owner.. of said claim, for the purpose of complying with the law of the United States pertaining to assessment of annual work, and John Smith, working ..... days in said period of time (then follow with other names in same manner) were the men employed by said owner.., and who labored upon said claim, did said work and improvements, the same being as follows, to-wit:

.....

The number of cubic feet of earth (or rock) removed while doing said work was..... cubic feet.

.....

Subscribed and sworn to before me this.....day of ....., 190.....

My commission expires .....

.....

Notary Public.

For affidavit of work done on groups use above form in connection with form on page 37.

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GENERAL INFORMATION

A corporation may, by its agent, locate a mining claim.
McKinley v. Wheeler. 130 U. S. 630. 70. Fed. R. 463.

In the case of Thompson vs. Spray 72. Cal. 531 it was decided that a minor child may make a mining location.

The title to mining claims that are not patented is occupation and development, and the title is conditional upon such occupation and development.

No discovery of mineral is complete until the actual vein is discovered; the finding of float or loose quartz is not a sufficient discovery to warrant a lode location.

Discovery of ore that will pay to work is not essential to a mining location, but it is sufficient if its value is such that one will be willing to further develop and follow the vein.

In order to hold two or more claims it is necessary that there should be a discovery of mineral on each of the claims. An extention of a mining claim can not be held by reason of discovery on another claim. Where owing to the nature of the ground stakes can not be driven in where the statute requires stakes it is sufficient that the stakes be held in place by a pile of stones.

Where an application has been made for a patent on one or more mining claims the annual labor must be kept up after the application and until final entry.

While the Congressional Act of 1880 does not require annual labor upon a claim during the year location is made, still such annual expenditure may be required during the location year by State Statute.

The following things will count for annual labor:

1. Any labor performed for the purpose of discovering mineral.
2. Building a road to reach the mining claim.
3. Building a flume, drain or ditch to get water on a claim.
4. Wages of a watchman where the mine is idle.
5. Work done off of the claim when it is a direct reference to the drainage or development of the claim.

The following work will not count:

1. Building a house for dwelling away from the claim, though near it.
2. Expense of taking tools, lumber, etc., to the mine.

3. Traveling expenses in going to and coming from the mine.

Where the owner of the claim has not done his annual labor, but begins work on Dec. 31st, and prosecutes the work continuously to the amount of $100 a claim, his claim or claims can not be re-located on Jan. 1st, but his work must be continuous until the whole $100 has been expended.

Where several owners of a claim have allowed the year to expire without doing the annual labor and one of such owners attempts to re-locate the claim for himself the Court will decide that such re-location is for the benefit of all the former owners.

Where mining ground that has previously been located is re-located the location notice of the new location should state that it is located on abandoned ground and should show the name of the previous owner, and what ground is re-located with as much particularity as possible, and if name of old owner is unknown that fact should be stated.

An amended location notice relates back to the date of original location and with all its rights and privileges, provided no adverse rights have in the mean-time intervened. (40 Fed. 787.)

A placer claim is a location in which gold is found loose in sand or gravel and not in a vein or in place. It includes gulch claims, old channels, cement and drift diggings.

Oil land may be located as a placer but an actual discovery of oil must first be made.

The amount of ground which can be located as a placer claim is limited to twenty acres to each person, but an association of persons may locate a claim in common, which will in the aggregate not exceed twenty acres to each person in the association, and not exceed 160 acres in all. In such case a separate discovery is not required on each twenty acres but a discovery on any part is sufficient.

The following table will show the dimensions of placer claims:

Claim	466.69	x	466.69	feet contains	5 acres.
Claim	660	x	330	feet contains	5 acres.
Claim	660	x	660	feet contains	10 acres.
Claim	1320	x	660	feet contains	20 acres.
Claim	800	x	1089	feet contains	20 acres.
Claim	933 1-3	x	933 1-3	feet contains	20 acres.
Claim	1320	x	1320	feet contains	40 acres.
Claim	2640	x	2640	feet contains	160 acres.

Tailings are the property of the miner who made them so long as they are retained on his own land, or under his own

control and not abandoned, but when allowed to flow upon the land of another the other becomes entitled to them.

A quit-claim form of deed is the one commonly used to transfer title to an unpatented mining claim, but care should be taken to properly describe the mining claim by reference to the book and the page of the County Records in which the original location notices are to be found, and reference to them should be made for description. It is not necessary that the wife of an owner of a mining claim should join her husband in conveying a mining claim in either Arizona or Nevada but it is necessary in California and Utah. Where the ownership of the claim is in the wife, it is necessary for the husband to join in the deed in all of the places named.

A person desiring to obtain a deed, a lease, a working bond or an agreement to sell a mining claim should consult a lawyer who is conversant with mining law in the state in which the claim is located, unless he is looking for a law suit. Before paying out money for such purposes an examination of the title of the reputed owner of the mining claim should be carefully made; by doing these things for a small payment of money trouble can be avoided to get out of which (if fortunate) many hundreds will later be paid.

CONTRACT TO SELL AND TO BUY.

I, ..., vendor, hereby agree to sell to ....., and I, ... purchaser, agree to buy of said....., the ..... Placer Mining Claim, situate, etc.

The agreed consideration of said sale is $1,000.00 cash in hand paid, the receipt whereof is hereby acknowledged; $3,000.00 to be paid within.....days from the date hereof, and $6,000.00 within.....days from such date, making a total consideration of $10,000.00.

Said vendor within ten days from date will deliver to purchaser, or his attorney, an abstract of title duly certified by the Clerk and Recorder of said County, or by some reputable abstract office, together with all the original title papers which are in his possession or within his power to produce.

And within said time will place in escrow in the..... Bank of..... a good and sufficient..... deed conveying to said....., or such person as he shall nominate, the said premises clear of encumbrance, to be by such band held in escrow until final payment be made under this contract or default is made under the same. Deposit in said band to the credit of vendor shall be equivalent to payment of any of said installments.

Time is of the essence of this contract as to each and every installment, and if any installment or installments be not paid within the time or times hereby limited therefor, all previous installments shall be and remain the property of said vendor, the deed in escrow shall be returned to him for cancellation, and the property shall remain his own, unaffected and unencumbered by this contract. But if he fail to deliver abstract within said period, or to deposit said deed in escrow, or if his title prove encumbered or otherwise not marketable, vendee may recover any and all installments paid, or may sue for specific performance and for a perfect title, or for damages or otherwise as he may be advised.

WITNESS the hands and seals of said parties this..... day of....., A. D. 190.....

.....(Seal)

.....(Seal)

BOND FOR A DEED OF MINING PROPERTY.

Know all Men by These Presents:

That..... of the County of Yuma and Territory of Arizona, the part..... of the first part, ...held and firmly bound unto..... .....of the County of.....and Territory of Arizona, the part..... of the second part, in the sum of.....Dollars, ... of the United States of America, to be paid to the said..... ..... executors, administrators or assigns; for which payment well and truly to be made,..... bind.....heirs, executors and administrators .....firmly by these presents. Sealed with .....seal....and dated the.....day of .....A. D. One Thousand Eight Hundred and Ninety.....

THE CONDITION of the above obligation is such, that if the above bounded obligor.... shall, on the..... day of.....A. D. One Thousand Eight Hundred and Ninety....., make, execute and deliver unto the said.....or to .....assigns, (provided that the said..... shall on or before that day have paid to the said obligor.... the sum of.....Dollars, ... of the United States of America, the price by said..... .....agreed to be paid therefor), a good and sufficient deed for conveying and assuring to the said..... free from all incumbrances, all..... right, title and interest, estate, claim and demand, both in law and equity, as well in possession as in expectancy, of, in or to that certain portion, claim and mining right, title or property on.....certain vein.... or lode.... of rock containing precious metals of gold, silver and other minerals, and situated in the..... .....Mining District, County of..... and Territory of Arizona, and described as follows, to-wit:.... .... Then this obligation to be void, otherwise to remain in full force and virtue.

Signed, Sealed and Delivered in the presence of

....(Seal)
....(Seal)
....(Seal)
....(Seal)

Acknowledge before Notary Public.

MINING DEED.—QUIT CLAIM.

THIS INDENTURE, made this.....day of....., in the year One thousand, nine hundred and....., between .....of....., the party of the first part, and.....of.....the party of the second part,

WITNESSETH, that the party of the first part, for and in consideration of the sum of.....Dollars, lawful money of the United States, to him in hand paid by the party of the second part, the receipt whereof is hereby acknowledged, does by these presents sell, confirm and quit-claim unto the said party of the second part, and to his heirs and assigns, all those certain.....quartz mining claims, situated in .....Mining District, ...County, State of....., and more particularly described as follows:

(An undivided one-half interest in and to) the..... Mining Claim, the location notice of which is recorded in Book ....., page....., Notices of Mining Locations, in the office of the County Recorder of the County of....., State of....., and recorded in Book....., page ....., of the Mining Records of said.....Mining District.

(Here describe balance of claims as above.)

TOGETHER, with all dips, spurs, angles and variations and all the metals therein; and all the rights, privileges and franchises thereto incident, appendant and appurtenant, or therewith usually had and enjoyed; and also all and singular the tenements, hereditaments and appurtenances thereto belonging, or in any wise appertaining, and the rents, issues and profits thereof; and also all the estate, right, title, interest, property, possession, claim and demand whatsoever, as well in law as in equity, of the said party of the first part, of, in or to the said premises, and every part and parcel thereof, with the appurtenances.

TO HAVE AND TO HOLD, all and singular the said premises, together with the appurtenances and privileges thereunto incident, unto the said party of the second part, his heirs and assigns forever.

IN WITNESS WHEREOF, the said party of the first part has hereunto set his hand and seal the day and year first above written.

....(Seal)

....(Seal)

Acknowledge before Notary Public.

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TO ATTORNEYS

I would advise you that I have in my office a complete set of Arizona Statutes, decisions and forms which you are welcome to use at any time.

I have associates, mostly attorneys, who can act as agents for corporations, in all the principal towns of Arizona, and I can thus quickly and carefully assist you to incorporate. Correspondence with attorneys on Arizona practice will be cheerfully answered to assist them in their business. I was for many years District Attorney in Arizona and have been in this line of business for 15 years. You can save yourself a great deal of trouble and possible error by handing or sending your original articles (and two copies) to me, and my associate in Arizona will attend to filing and publishing and return all papers to you promptly.

We are also prepared to hold stockholders' meetings anywhere in Arizona by proxy when desired.

If you have occasion to associate counsel with you in any mining litigation in Arizona, I would have you know that either my father, Gen. Thos. F. Wilson, or myself attend all terms of Court in Phoenix (Maricopa County), Yuma (Yuma County), Nogales (Santa Cruz County), Florence (Pinal County), Tombstone (Cochise County), and Tucson (Pima County). We have had from fifteen to twenty years' experience in mining litigation in Arizona.

We can also assist you to obtain patents to mining claims or agricultural entries either through the local U. S. Land Offices at Phoenix, Arizona, or Los Angeles, California, or the Departments in Washington.

Gen. Thos. F. Wilson resides at Tucson, Arizona, where he was United States Attorney. We will be glad to be associated in any class of general law business you may have in Arizona.

I refer by permission to Hon. W. J. Hunsaker, Hon. E. W. Camp, and Messrs. Works, Lee & Works, Attorneys, Los Angeles, California.

CALVERT WILSON,
Attorney at Law,
Los Angeles, California.

350 Wilcox Building, Home Phone 1851.

ARIZONA CORPORATION LAWS

CHAPTER I.

Corporations.

761. (Section 1.) Corporations are either public or private.

762. (Sec. 2.) A public corporation is one that has for its object the government of a portion of the territory.

763. (Sec. 3.) A private corporation is one organized for the purpose of religion, charity or benevolence, sociability or learning or for profits.

CHAPTER II.

Corporations in General.

764. (Sec. 4.) Any number of persons may associate themselves together and become incorporated for the transaction of any lawful business, but such corporation shall confer no powers or privileges not possessed by natural persons, except as herein provided.

765. (Sec. 5.) Among the powers of such bodies corporate shall be the following:

1. To have perpetual succession.
2. To sue and be sued by the corporate name.
3. To have a common seal and alter the same at pleasure.
4. To render the shares or interest of stockholders transferable and prescribe the mode of making such transfers.
5. To exempt the private property of members from liability for corporate debts.
6. To make contracts, acquire and transfer property, possessing the same powers in such respects as private individuals now enjoy.
7. To establish by-laws and make all rules and regulations deemed expedient for the management of their affairs not inconsistent with the constitution and laws of the United States and laws of this Territory.

766. (Sec. 6.) Before commencing any business, except that of their own organization, they must adopt articles of incorporation, which shall be signed and acknowledged by them as deeds are required to be acknowledged, and recorded in a book for that purpose in the office of the County Recorder in the county where the principal place of business is to be. The articles of incorporation must contain:

1. The names of the corporators, the name of the corporation, and its principal place of transacting business.

2. The general nature of the business proposed to be transacted.

3. The amount of capital stock authorized and the time when and the conditions upon which it is to be paid in.

4. The time of the commencement and determination of the corporation.

5. By what officers or persons the affairs of the corporation are to be conducted and the times at which they are to be elected.

6. The highest amount of indebtedness or liability to which the corporation is at any time to subject itself.

7. Whether private property is to be exempt from corporate debts. Unless so exempted, stockholders are liable for the debts of the corporation in the proportion to which their stock bears to the whole capital stock.

767. (Sec. 7.) Every corporation organized under the provisions of this title shall file a copy of its articles of incorporation, certified to by the county recorder of the county where said articles are recorded, in the office of the auditor of the Territory and have the same recorded by him in a book kept for that purpose. Such articles of incorporation must specify the highest amount of indebtedness and liability, direct or contingent, to which the corporation is at any time to be subject, which must in no case exceed two-thirds of the amount of the capital stock.

768. (Sec. 8.) Every corporation organized under the provisions of this title shall publish at least six times in some newspaper published in the county in which the principal place of business is located or works established, if there be one, and if not, then in some newspaper having a general circulation in such county, a copy of its articles of incorporation, and, upon the expiration thereof, file an affidavit in the office of the auditor of the Territory, stating that such publication has been made according to law.

769. (Sec. 9.) The corporation may commence business as soon as its articles of incorporation are filed for record in the office of the county recorder, and a certified copy with the auditor of the Territory, and its acts shall then be valid, if the publication is made and an affidavit thereof filed in the office of the auditor of the Territory within three months from the date of the filing with the county recorder.

770. (Sec. 10.) The capital stock of any corporation organized hereunder may be increased or decreased and the articles may be amended in any of the particulars mentioned in Section 6 of this title by the affirmative vote of a majority of the stockholders. Such amendment shall be signed and acknowledged by the president and attested by the secretary of the corporation, and no such amendment shall be valid unless recorded and published as the original articles are required to be.

771. (Sec. 11.) Corporations organized under this title may be formed to endure for twenty-five years, but they may be renewed from time to time for a period of not exceeding twenty-five years, when three-fourths of the votes cast at any stockholders' meeting duly called and held for that purpose shall be in favor of such renewal.

772. (Sec. 12.) The corporation shall not be dissolved prior to the period fixed upon in the articles of incorporation, except by a majority vote of its members, unless a different rule is adopted in the articles.

773. (Sec. 13.) Transfer of the stock shall not be valid except as between the parties thereto, until the same are regularly entered upon the books of the company so as to show the names of the person by whom and to whom the transfer is made, the number or other designation of shares, and the date of the transfer. The books of the company shall be so kept as to show intelligently the original stockholders, their respective interests, the amount of which has been paid thereon, and all transfers thereof, and such books or records or correct copies thereof, so far as they relate to the items mentioned in this section, shall at all times be subject to the inspection of any stockholder desiring the same.

774. (Sec. 14.) Any corporation organized or attempted to be organized in accordance with the provisions of this title shall cease to exist by non-user of its franchises for five years at any one time; but such body shall not forfeit its franchises by reason of any omission to elect officers or to hold meetings at any time prescribed by the by-laws.

775. (Sec. 15.) Corporations whose charters expire by their own limitation or by the voluntary act of the stockholders may, nevertheless, continue to act for the purpose of closing up the business, but for no other purpose, unless renewed as in this chapter provided.

776. (Sec. 16.) Nothing herein shall exempt the stockholders of any corporation from individual liability to the amount

of the unpaid installment on the stock owned by them, or transferred to them for the purpose of defrauding creditors; and an execution against the corporation to that extent may be levied upon the private property of such individual.

777. (Sec. 17.) For the purpose of making repairs, building or enlarging or extending works, or to meet contingencies, or for the purpose of providing a sinking fund for the payment of debts, the corporation may establish a fund and loan the same out from time to time, taking in all cases a good and sufficient security for the payment of the same.

778. (Sec. 18.) In any proceeding by or against a corporation, the court shall have the power to compel the officers of the corporation, on motion of either party, upon proper cause being shown, to produce the books and records of the corporation, and when so produced, either party may use the same in evidence.

779. (Sec. 19.) Persons acting as a corporation under the provisions of this title shall be presumed to be legally organized until the contrary is shown, and no such franchise shall be declared to be actually null and forfeited except in a regular proceeding brought for that purpose.

780. (Sec. 20.) No person acting as a corporation under the provisions of this title shall be permitted to set up or rely upon the want of a legal organization as a defense to any action brought against them as a corporation, nor shall any person who may be sued on a contract made with such corporation, or sued for an injury done to its property, or for a wrong done to its interests, be permitted to rely upon such want of legal organization in his defense.

781. (Sec. 21.) No corporation organized under the provisions of this title for the purpose of doing a mining or manufacturing business shall have power to construct or operate any railroad, tramway, turnpike or canal, except such as may lead from its principal works or place of business to some navigable stream, or to some existing railroad, turnpike, or public highway.

782. (Sec. 22.) No person or persons to whom shares of stock in any company incorporated under the laws of this Territory, have been or hereafter shall be transferred, or by whom such shares are held as security for money advanced thereon, or which are now or shall be held by any such person or persons as security for any indebtedness whatever, shall have the right to vote at any election, either general or special, called or held by any such incorporated company for any purpose whatever;

but the absolute right to vote and represent all stock in any such incorporated company, transferred to or held by any person or persons as security for any money advanced thereon or for any other indebtedness whatever, at any election held by any such company as aforesaid, shall belong to the person or persons who deposit or transfer such stock as security for any such indebtedness, and any vote cast by any person or persons holding shares of stock in any incorporated company as aforesaid, as security as hereinbefore described, shall be absolutely void and of no effect.

783. (Sec. 23.) All corporations organized under this chapter shall appoint a bona fide resident of this Territory, who has been a resident of this Territory for at least three years, its agent, upon whom all notices and processes, including service of summons, may be served, and when so served shall be deemed taken and held to be lawful personal service on such corporation, and said notice shall be filed in the office of the auditor of the Territory.

AMENDMENTS.

1. Corporations may provide in by-laws for sale of shares subscribed for but not paid for, on notice. See Laws of 1907, page 52.

2. All persons occupying territorial public office are prohibited from acting as the statutory or resident agent for any corporation.

COSTS OF INCORPORATION.

The following is the total cost of incorporation in Arizona:

County Recorder, Recording Articles	$ 3.00
Certified Copy of Articles from County Recorder	3.00
Filing Certified Copy with Auditor of Arizona	10.00
Auditor's Certificate (if desired, not compulsory)	3.00
Filing Appointment of Agent with Auditor	3.00
Yearly Cost of Resident Agent	10.00
Filing Affidavit of Publication with Auditor	3.00
Publishing Articles in Tucson, Yuma or Phoenix	20.00
Total Expense	$55.00

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DYNAMITE,
WIRE ROPE,
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153-155 N. Los Angeles St. Los Angeles, Cal.

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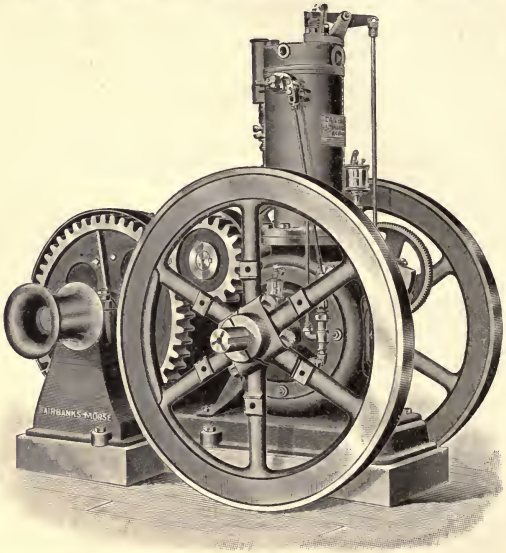

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Los Angeles Chamber of Mines

A Civic Association

The objects for which it is established are:

To foster and encourage mining, and all branches of the mining industry.

To stimulate the commercial relations between the city of Los Angeles and mining sections.

To aid in the development of the mineral resources of the Southwest.

To assist in placing the mining industry upon a substantial business basis, and to eliminate "wild cat" schemes.

To investigate mining properties and the personnel of their promoters, and issue certificates thereon.

We should be glad to have all good citizens interested in mining to join our Association, and help its objects.

The following Directors give, without compensation, their time to the chamber:

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